

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2017

CORAM

THE HON'BLE Mr.JUSTICE HULUVADI G.RAMESH
And
THE HON'BLE MR JUSTICE RMT.TEEKAA RAMAN

W.P.No.7766 of 2017
and
WMP No.8500 of 2017

S.Sundaram ... Petitioner

Vs.

1.The District Magistrate
and the District Collector,
Tiruppur District.

2.The Asst.Collector,
Tiruppur

3.The Authorised Officer,
REPCO Home Finance Ltd.,
No.18, Harini Centre 1st Floor,
Nehru Street,
Kaderpet, Tiruppur-641 601

4.REPCO Home Finance Ltd.,
(A subsidiary of REPCO Bank),
Alexander Square,
No.2 (Old Nos.34 and 35)
3rd Floor, Sardar Patel Road,
Guindy, Chennai-600 032

5.R.Vellingiri

6.V.Malathi

7.M.Murugan (guarantor)

8.Sub Collector,
Tiruppur.

... Respondents

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Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, forbearing the respondent from taking possession of immovable property land and buildings comprised in SF No.14, T.S.No.6/2A, Block No.4, No.6/2A, Block No.4, Ward No.D, T.S.Ward No.2, Cotton Mill Road, Thottipalayam Village, Tiruppur Town, Tiruppur Taluk, Tiruppur District, measuring an extent of 100 sq.ft by himself or through the Sub Collector, in pursuant to the proceedings of the first respondent in ref.No.15314/2016/C3, dated 10.03.2017.

For Petitioners :Mr.R.Lakshmi Narayanan

For Respondents :Mr.A.Ilangovan for R3

ORDER

(Order of the Court was made by HULUVADI G.RAMESH, J)

The petitioner is a lessee under the fifth respondent and a Lease Agreement has also been entered into between them, dated 15.09.2015. Subsequently, the fifth respondent and his wife, namely, the sixth respondent, who are the owners of the subject property, have availed loan from the fourth respondent bank and they have also created a equitable mortgage in respect of the said property, with the fourth respondent bank. The seventh respondent stood as a guarantor for the same. Since the fifth respondent defaulted in making repayment, the bank declared the said property as 'Non Performing Asset' and also initiated proceedings under the SARFAESI Act. To avoid summary eviction, the petitioner filed O.S.No.91 of 2016, on the file of the District Munsif Court, Thiruvallur, dated 17.3.2016. In the said suit an interlocutory application has also been filed seeking interim injunction and the same is pending. While so, the first respondent passed an order dated 10.3.2017, directing the second respondent, to take possession of the entire property. Hence petitioner is before this Court with this wit petition.

2. Heard the learned counsel for the parties for some time and also perused the records carefully.

3. It appears that the petitioner has originally filed a suit before the District Munsif Court and also similarly moved a petition before this Court. So far as eviction is concerned, it is for the respondent bank to appear before the civil Court and get the matter settled, as the suit filed by the petitioner is pending before the civil Court. It is also made clear that even the issues like payment of arrears by the tenant or repayment of outstanding dues by the borrower/owner of the

property, could also be raised before the civil Court itself. As such, for the present, no relief, as sought for by the petitioner could be granted in this writ petition. Accordingly, this writ petition is dismissed. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

msk

To

- 1.The District Magistrate
and the District Collector,
Tiruppur District.
- 2.The Asst.Collector,
Tiruppur
- 3.The Authorised Officer,
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- 5.Sub Collector,
Tiruppur.

+1 cc to M/s.A.Ilangovan Advocate sr 25206
+1 cc to M/s.R.Lakshmi Narayanan Advocate sr 25140

W.P.No.7766 of 2017

sr(co)
aa09/06/2017