

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/8/2017

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21575 of 2017
and
WMP.No.22564 of 2017

A.Raja Mohammed ... Petitioner

vs.

1.TamilNadu Mercantile Bank Ltd.,
Rep.by it Manager,
Villupuram Branch.

2. A.Kaja Mohideen

3. Debt Recovery Tribunal - III,
Spencer Plaza, 5th Floor,
Chennai - 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the third respondent to number the M.A.Sr.No.1372 of 2017 dated 13.02.2017 in S.A.No.252 of 2015 on the file of Debt Recovery Tribunal-III at Chennai filed by the petitioner and dispose of the same on merits and in accordance with law.

For Petitioner : Mr.K.N.Nataraja

O R D E R

(Order of the Court is made by S.MANIKUMAR, J)

S.A.No.252 of 2015 has been filed by the borrower, on the file of the Debts Recovery Tribunal - III, Chennai, challenging the sale notice, dated 15/5/2015, issued by Tamil Nadu Mercantile Bank, Villupuram Branch, Villupuram.

2. Before the Tribunal, taking note of the Memo, dated 6/5/2016, filed by the Bank that the entire dues, in respect of M/s.J.T.C.Modern Rice Mill, has been paid by the applicant therein, on 21/4/2016, by observing that S.A., has become infructuous, the Tribunal, dismissed the same.

3. Thereafter, the petitioner seemed to have sent a letter, dated 29/6/2016, to the Branch Manager, Tamil Nadu Mercantile Bank, Villupuram, to deliver the title deeds, in respect of item Nos.2 and 3 of the mortgaged properties with the Bank in 1994 to him and item No.1 to his wife, at the earliest.

4. As there was a rival claim, Bank has sent a reply, dated 6/10/2016, through their lawyer. Thereafter, petitioner has filed M.A.SR.No.1372 of 2017, in S.A.No.252 of 2015, on 13/2/2017, for a direction to the Tamil Nadu Mercantile Bank, Villupuram, to deliver all the title deeds to him, in respect of item No.1 of the property, consisting of immovable property, to an extent of 2.55 acres, rice mill, building thereon, at S.No.746/2A/1, at GST Road, Vikaravandi Village, Villupuram District. Registry of the Debts Recovery Tribunal - III, Chennai has returned the papers, with the following endorsement, "Return".

5. On the above pleadings, the petitioner has sought for a mandamus, directing the Registrar, Debts Recovery Tribunal - III, Chennai, to number M.A.SR.No.1372 of 2017, dated 13/2/2017, in S.A.No.252 of 2015, on the file of the Debts Recovery Tribunal - III, Chennai.

6. Added further, Mr.K.N.Nataraj, learned counsel for the petitioner submitted that except the above endorsement, Registry of the Debts Recovery Tribunal - III, Chennai, has not recorded any reasons, noting down any defect, if any, in filing the above said application. He further submitted that though he personally met the Registrar of the Debts Recovery Tribunal - III, Chennai, requesting him to number, the same has not been done and therefore, left with no other alternative, the petitioner has approached this Court, under Article 226 of the Constitution of India, for suitable directions, as stated supra.

7. Heard Mr.K.N.Nataraj, learned counsel for the petitioner and perused the materials available on record.

8. Though learned counsel for the petitioner submitted that he personally met the Registrar of the Debts Recovery Tribunal-III, Chennai, requesting to number M.A.SR.No.1372 of 2017, dated 13/2/2017, the same is not reflected in the supporting affidavit to the writ petition. Nevertheless, during the course of hearing, the learned counsel for the petitioner, further submitted that the returned papers are with him.

9. Even assuming that the Registry of the Debts Recovery Tribunal, Chennai has returned the papers, M.A.SR.No.1372 of 2017, without assigning any proper reason, it is the duty of

the counsel to represent it, demanding reasons for the return and to request the Registry to number the M.A. If the Registry does not accept the request, it is always open to the learned counsel, to bring it to the notice of the Presiding Officer, Debts Recovery Tribunal-III, Chennai, for suitable orders.

10. Though the petitioner has contended that left with no other remedy, he has approached this Court, under Article 226 of the Constitution of India for a Mandamus, we are not inclined to accept the said contention, for the above said reasons.

11. True that a duty is cast on the Registry, to number the Miscellaneous Application, if it is other wise in order and if not done, it cannot be contended that recourse to Article 226 of the Constitution of India, is the only remedy. As stated supra, the petitioner can always bring it to the notice of the Presiding Officer.

12. In the light of the above, we are not inclined to entertain the writ petition and accordingly, the same is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1. The Manager
TamilNadu Mercantile Bank Ltd.,
Villupuram Branch.
2. Debt Recovery Tribunal - III,
Spencer Plaza, 5th Floor,
Chennai - 600 002.

copy to:
The Section officer, High Court,
Madras (To take further action)

W.P.No.21575 of 2017

ss(4/9/2017)