

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.6.2017

CORAM

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

Writ Petition No.13115 of 2017

C.Devi

... Petitioner

Vs.

1. The District Magistrate/District Collector
Tiruppur District
Office of the District Collector of Tiruppur
Tiruppur.
2. The Sub Collector
Tiruppur Sub-Division
Office of the RDO
Tiruppur.
3. The Tahsildar
Tiruppur North Taluk
Tiruppur.
4. The Commissioner of Police
Tiruppur City
Tiruppur.
5. The Inspector of Police
Tiruppur Town North Police Station
Tiruppur.
6. The Assistant Commissioner of Police
Tiruppur North Zone
Tiruppur.
7. The Authorised Officer
M/s. Union Bank of India
Sulur Branch
Coimbatore District.
8. The Authorised Officer
M/s. Central Bank of India
Tiruppur Branch
Tiruppur

9. V.Balasubramaniam

10.Muthulakshmi

11.The Manager
Bank of Baroda
Trichy Road Branch
No.12, B.R.Nagar
Trichy Road
Coimbatore 641 005.

... Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent dated 08.11.2016 in proceedings bearing No. RC.12044/2016/C3 and to quash the same and direct the 7th respondent to put back the petitioner in the possession of the properties bearing No.72/43, First Street, KPN Colony, Union Mill Road, Tiruppur 641 601 and No.75, Universal-Vallipalayam Road, Tiruppur 641 601.

For Petitioner : Mr.Sandip B.Shah
For Mr.K.Balaji

For Respondents 1 to 6 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

For Respondent-7 : Mr.T.K.Bhaskar

For Respondent-8 : M/s. Thilak Narayanan
For Mr.T.M.Hariharan

For Respondents 9 & 10 : Notice served

For Respondent-11 : Mr.M.Arunkumar for
M/s.Sampath Kumar Associates

O R D E R
(Made by Huluvadi G.Ramesh,J)

The writ petition has been filed seeking a writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent dated 08.11.2016 in proceedings bearing No. RC.12044/2016/C3 and to quash the same and direct the 7th respondent to put back the petitioner in the possession of the properties bearing No.72/43, First Street, KPN Colony, Union Mill Road, Tiruppur 641 601 and No.75, Universal-Vallipalayam Road, Tiruppur 641 601.

2. Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for respondents 1 to 6 and the learned counsel appearing for the seventh, eighth and eleventh respondent Bank.

3. The petitioner is a lessee under the respondents 9 and 10, since 2013 and carrying on offset printing business. It appears that the tenth respondent has availed financial assistance from the seventh respondent, by mortgaging the properties that have been leased to the petitioner, in the year 2014. Due to the default committed by the tenth respondent, the seventh respondent has filed an application before the first respondent under Section 14(1) of the SARFAESI Act on 03.10.2016. The first respondent, by proceedings dated 08.11.2016, authorised the Revenue Divisional Officer to take possession of the properties and to hand over it to the seventh respondent Bank. The second respondent had taken possession of the properties on 04.4.2017 and handed over to the seventh respondent Bank. Contending that she has been thrown out of the premises and all her valuables and belongings and goods and articles for delivery are lying inside the premises, the petitioner has come up with this writ petition.

4. According to the petitioner, the tenth respondent had availed loan by mortgaging the properties only after leasing the properties to the petitioner. Therefore, the seventh respondent Bank should have put her on notice, as she being a lessee under the tenth respondent and in occupation of the properties, before taking possession of the properties. Further, since she has been thrown out of the premises, she could not supply the goods and articles that were due for delivery, thereby she has been put to irreparable hardship and financial constraint.

5. It is not in dispute that the petitioner is a lessee under the tenth respondent. But, since the tenth respondent had committed default in payment of loan, the seventh respondent had filed an application under Section 14(1) of the SARFAESI Act and took physical possession of the properties, in accordance with law, for which, the petitioner cannot have any grievance. If at all the petitioner has any grievance, it may be only for removing her belongings and machineries that are lying in the premises in question, as she could not carry on her business due to the locking of the premises.

6. In the above backdrop, we are of the considered opinion that it would suffice if the petitioner is granted reasonable time to remove her belongings and machineries, in order to enable the petitioner to carry on her business. Accordingly, the petitioner is granted 45 days time from the date of receipt of a

copy of this order, for removing her belongings, machineries, goods, etc. The seventh respondent Bank is directed to permit the petitioner to remove all her goods without any controversy.

The writ petition is ordered accordingly. There shall be no order as to costs. Consequently, WMP Nos.14011 and 14012 of 2017 are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kpl

To

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M/s. Union Bank of India
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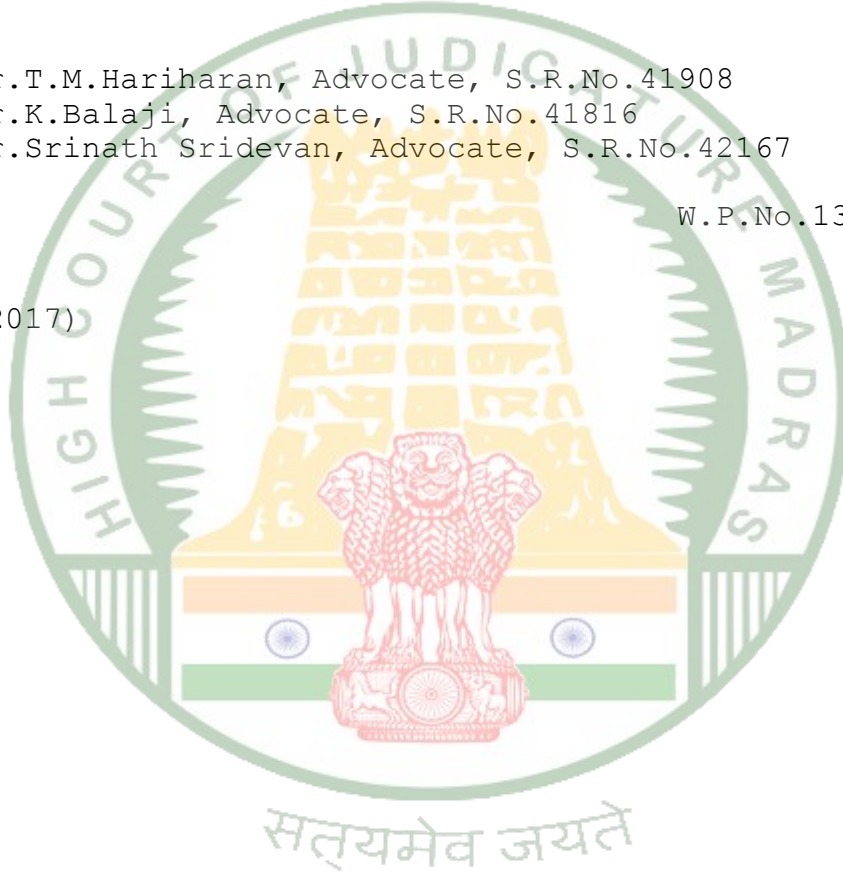
8. The Authorised Officer
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9. The Manager
Bank of Baroda
Trichy Road Branch
No.12, B.R.Nagar
Trichy Road
Coimbatore 641 005.

+1cc to Mr.T.M.Hariharan, Advocate, S.R.No.41908
+1cc to Mr.K.Balaji, Advocate, S.R.No.41816
+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.42167

W.P.No.13115 of 2017

SJ(CO)
CA(28/06/2017)



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