

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Sixteenth day of June Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE M.M.SUNDRESH

WMP No.3758 of 2017

IN MP.NO.3 OF 2015

IN WP.3632 OF 2015

KOTAK MAHINDRA BANK LTD., REGD [PETITIONER IN WMP.3758/17 &
OFF: 27, BKC, C-27, G-BLOCK, BANDRA-E, 1ST RESPONDENT IN MP.3/15
MUMBAI-51. BR.OFF: 3, DASS INDIA TOWER, IN WP.3632/15]
2ND LINE BEACH, CHENNAI-1,
REP.BY ITS AUTHORISED
REPRESENTATIVE MR.M.D.MAHESHWARAN.

Vs

1 THE SPECIAL SECRETARY, [1 TO 3 RESPONDENTS IN WMP.3758/17 & 2ND
DEPARTMENT OF REVENUE & RESPONDENT IN MP.3/15 IN WP.3632/15]
DISASTER MANAGEMENT,
GOVERNMENT OF PUDUCHERRY,
PUDUCHERRY.

2 THE DEPUTY COLLECTOR [3RD RESPONDENT IN MP.3/15 IN
REVENUE-CUM-LAND ACQUISITION (OFFICER) NORTH, WP.3632/15)
GOVERNMENT OF PUDUCHERRY, PUDUCHERRY.

3 MRS.DEVAKI, NO.18, 3RD CROSS [PETITIONER IN MP.3/15 IN
STREET, JAWAHAR NAGAR, BOOMIANPET, WP.3632/15]
PUDUCHERRY-605005 AND ALSO AT NO.23&24,
JAWAHAR NAGAR MAIN ROAD,
REDDIARPALAYAM, PUDUCHERRY.

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to

To Direct the Petitioner to proceed with the SARFEASI sale, in
WMP.3758/17 and;

(ii) To Vacate the Order of Stay granted on 12.02.2015 in MP
No.2/2015 in WP No.3632/2015 in MP.3/15 in WP.No.3632/15
respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.SHIVAKUMAR AND SURESH, Advocate for PETITIONER IN WMP.3758/17 & 1ST RESPONDENT IN MP.3/15 IN WP.3632/15 and of Mr.S.SENTHILRAMAN, Advocate for 1 TO 3 RESPONDENTS IN WMP.3758/17 & 2ND RESPONDENT IN MP.3/15 IN WP.3632/15 the court made the following order:-

The writ petitioner is the mortgagee of the property which is the subject matter of the acquisition proceedings. For the dues payable, the petitioner has already initiated proceedings before the Debt Recovery Tribunal. In the capacity as the mortgagee, the petitioner has filed the present writ petition challenging the acquisition proceedings and obtained an order of stay. Seeking to vacate the stay, the third respondent in the writ petition, who is the owner of the property filed a petition in M.P.No.3 of 2015 and seeking permission to sell the property under SARFAESI Act, the writ petitioner also filed another petition in W.M.P.No.3758 of 2017.

2.The direction petition in W.M.P.No.3758 of 2017 cannot be ordered now as allowing the same would amount to allowing the writ petition. Accordingly, W.M.P.No.3758 of 2017 is dismissed. At best, the writ petitioner can step into the shoes of the mortgagor. However, the writ petitioner being the mortgagee is entitled to challenge the acquisition proceedings.

3.In such view of the matter, interim stay already granted is made absolute. The vacate stay petition in M.P.No.3 of 2015 is closed since the mortgagor cannot contend contrary to the Deed of Mortgage and by allowing the acquisition proceedings to go on, the writ petitioner would be prejudiced both in terms of the property as well as the compensation.

4.Post the main writ petition for hearing on 14.09.2017.

-sd/-
16/06/2017
/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL SECRETARY,
DEPARTMENT OF REVENUE & DISASTER MANAGEMENT,
GOVERNMENT OF PUDUCHERRY, PUDUCHERRY.

2 THE DEPUTY COLLECTOR
REVENUE-CUM-LAND ACQUISITION (OFFICER) NORTH,
GOVERNMENT OF PUDUCHERRY, PUDUCHERRY.

C.C. to M/S.SHIVAKUMAR AND SURESH Advocate on payment of
necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in
WMP No.3758 of 2017

IN MP.NO.3 OF 2015

IN WP.3632 OF 2015

Date :16/06/2017

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