

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 6.6.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.2756 of 2017
and
W.M.P.No.2691 of 2017

State Bank of India
Stressed Assets Management Branch
Raja Plaza I Floor No.1112
Avinashi Road Coimbatore-641 037
Rep by its Assistant Manager ... Petitioner

Vs

The District Collector
(District Magistrate) Coimbatore District
Coimbatore ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of the impugned order in Ref.No.20202/2015/E3 dated 09.11.2016 on the file of the respondent and to quash the said impugned order being in derogation of the statutory provisions and decisions of the Honourable Supreme Court of India and consequentially direct the respondent to pass appropriate orders in the petitioner's application dated 03.11.2015 under Section 14 of SARFAESI Act rendering necessary assistance to the petitioner to take vacant physical possession of the secured assets as set out therein.

For petitioner : Mr.E.Omprakash for
M/s.Ramalingam and Associates

For respondent : Mrs.A.Srijayanthi,
Special Government Pleader

ORDER

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

Heard the learned counsel appearing for the appellant and the learned Special Government Pleader on the issue.

2. The writ petitioner challenges the order of the respondent-District Collector/District Magistrate declining to take and hand over possession of the subject property to the

petitioner and seeks for a direction to the respondent to pass orders on his application, providing assistance to take possession of the property.

3. It appears that, an enquiry by the District Collector (District Magistrate) through the Tahsildar, had revealed that two of the tenants are in occupation of the subject property and hence, it was informed by the authority that in view of the amended Act, and the judgment rendered by the Supreme Court, the petitioner has to approach only Debts Recovery Tribunal, which shall have the jurisdiction to examine the claims of any tenancy in the matter.

4. At this stage, the learned counsel appearing for the petitioner-bank submits that the alleged tenancy is without any lease agreement. If that be so, it is for the respondent-authority to re-consider the issue and after serving notice to such persons, vacate the alleged tenants with some reasonable force and take steps to hand over possession to the petitioner-bank and if there are lease agreements, then, it is for the petitioner-bank to approach the civil court or the appropriate authority or to negotiate with the tenants who are squatting in the property.

5. With the above observation, the writ petition is disposed of. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk

To

The District Collector
(District Magistrate) Coimbatore District
Coimbatore.

+2cc's to M/s.Ramalingam & Associates, Advocate, S.R.No.40179
+1cc to the Government Pleader, S.R.No.40290

W.P.No.2756 of 2017

CA(30/06/2017)