

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.11.2017

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.3082 of 2012

A.Velugounder

... Petitioner

Vs.

The Manager,
Canara Bank,
Anaicut, Vellore District.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to forbear the respondent from forcibly seizing the Tractor TN 23 AB 7789 and Trailer TN 23 AB 7790 without following due process of laws under the circumstances of the case.

For Petitioner : Mr.R.Margabandhu

For Respondent : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.

ORDER

The petitioner has approached this Court seeking the following relief:

to issue a writ of mandamus to forbear the respondent from forcibly seizing the Tractor TN 23 AB 7789 and Trailer TN 23 AB 7790 without following due process of laws under the circumstances of the case.

2.According to the petitioner, he had availed loan of Rs.4,50,000/- from the respondent/Bank for purchase of Tractors. The Tractors purchased from the loan had been hypothecated to the respondent.

3.Since there was default in payment of monthly installments, a notice was issued to the petitioner on 11.01.2012 by the Bank demanding for payment of Rs.8,29,938/- within 15 days, failing which, the Tractors will be seized and will be sold in auction.

4.According to the petitioner, in pursuance of the notice,

some officials representing the Bank came to his house and attempted to seize the Tractors. Therefore, he is before this Court seeking the prayer as stated supra.

5. Upon notice, Mr. P. Raghunathan, learned Standing Counsel has entered appearance on behalf of the respondent/Bank and submitted that the entire writ petition as it framed and filed is not maintainable for the simple reason that despite no interim order passed by this Court, the Tractor and the Trailer are still in possession of the petitioner and the respondent/Bank had not attempted to seize the same, by adopting any illegal means.

6. According to the respondent/Bank, the petitioner owes a Bank under the loan sanctioned to him to an extent of approximately Rs.19 lakhs and no part of the amount was forthcoming from the petitioner till date.

7. The learned counsel appearing for the respondent/Bank would submit that this writ petition is filed in order to achieve a collateral purpose on the part of the petitioner to avoid payment and he would further submit that since the writ petition lacks bona fides, the same is liable to be dismissed.

8. On the other hand, the learned counsel for the petitioner would attempt to argue that he was willing for one time settlement with the Bank. However, it has to be noted that the scope of the litigation cannot be extended and enlarged for settlement of the amounts from the borrower to the Bank.

9. As rightly contended by the learned Standing Counsel appearing for the respondent/Bank that the present writ petition is intended to achieve certain other purpose than what the petitioner has sought for in this writ petition, therefore, this writ petition cannot be entertained any further. Therefore, the Writ Petition is dismissed as devoid of merits and substance. However, it is open to the petitioner to approach the respondent/Bank in case, he wants to settle the issue amicably. No costs.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

Sgl

To

The Manager,
Canara Bank,
Anaicut, Vellore District.

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.83826

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SSV(CO)
RRK(19/01/2018)



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