

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8/12/2017

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Writ Petition No.28347 of 2017
and W.M.P. No 30452 of 2017.

Smt.P.Kamala

...Petitioner

Vs

1. The State Bank of India
rep. by its Chief Manager
Sirkali Branch
Sirkali
Nagapattinam District.
2. The State Bank of India
rep. by its Authorised Officer/
Chief Manager
Sirkali Branch
Sirkali
Nagapattinam District.
3. The State Bank of India
rep. by its Branch Manager
Sirkali Branch
Sirkali
Nagapattinam District.
4. The Debts Recovery Tribunal III
Rep by its Preceding officer
Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the entire records relating to the impugned possession notice dated 26/10/2017 of the respondents 1 and 2 herein and quash the same.

For petitioner

...

Mr.Boopathy
for Mr.A.Saravanan

For respondent ... Mrs.SR.Sumathy
for R.R.1 to 3.

O R D E R

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

Possession notice, dated 6/8/2016, has been challenged by the borrower/writ petitioner, in S.A.No.487 of 2016, before the Debts Recovery Tribunal - III. In S.I.A.No.1320 of 2016 in S.A.No.487 of 2016, vide proceeding, dated 28/9/2016, the Debts Recovery Tribunal - III, has granted interim stay of all further proceedings, pursuant to the possession notice, dated 6/8/2016, subject to the condition that the writ petitioner, remitting a sum of Rs.82,000/-, to the credit of the borrower's loan account, on or before 21/10/2016.

2. Petitioner is stated to have complied with the above directions.

3. When the matter stood thus, State Bank of India, Sirkali Branch, Nagapattinam District, has issued another possession notice, dated 26/10/2017, with respect to the same property and seeking to quash the same, instant writ petition has been filed.

4. When the matter came up yesterday, we directed Mrs.SR.Sumathy, learned counsel for the respondent Bank, to get instructions, as to the stage of S.A.No.487 of 2016, filed before the Debts Recovery Tribunal - III, and also to ascertain from the Bank, as to why another possession notice, with respect to the same property, has been issued.

5. Reverting, learned counsel for the Bank submitted that S.A.No.487 of 2016 filed challenging the possession notice, dated 6/8/2016, has been disposed of, on 30/3/2017, by the Debts Recovery Tribunal III, sustaining the validity of the said notice. She further submitted that issuance of other possession notice, dated 26/10/2017, is unwarranted and that the same would be revoked by State Bank of India, Sirkali. Submission of the learned counsel for the Bank is placed on record.

6. From the submission of the learned counsel for the Bank, it could be deduced that when the notice dated 6/8/2016 is sustained by the Tribunal, issuance of second notice is unwarranted and the same has to be set aside.

7. Accordingly, the instant writ petition is allowed and possession notice, dated 26/10/2017, issued by State Bank of India, Sirkali, is set aside. No costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Chief Manager
State Bank of India
Sirkali Branch
Sirkali
Nagapattinam District.
2. The Authorised Officer/Chief Manager
State Bank of India
Sirkali Branch
Sirkali
Nagapattinam District.
3. The Branch Manager
State Bank of India
Sirkali Branch
Sirkali
Nagapattinam District.
4. The Preceding officer
The Debts Recovery Tribunal III
Chennai.

+2 Ccs to Mr.A. Saravanan, Advocate sr 87249

+1 CC to Mr.S.R. Sumathy, Advocate sr 87308.

Writ Petition No.28347 of 2017

SP(27/12/2017)