

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.23504 of 2016
and
W.M.P.No.20151 of 2016

The Authorized Officer,
Kotak Mahindra Bank Ltd.,
8th Floor, TVH Agnitio Park,
Zone-2, Old Mahabalipuram Road,
Kandhanchavadi, Chennai - 600 096.

.. Petitioner

versus

1. Mr.Naseer Khaleeli.
2. Mr.M.Krishnamurthy
3. Mrs.Nazreen Krishnamurthy

4. The Registrar,
Debts Recovery Appellate Tribunal,
Egmore, Chennai - 600 008.

.. Respondents

[Respondents 2 & 3 are not parties before the tribunal and no relief is sought for against them in the writ petition and hence given up]

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to maintain status quo in respect of the secured asset, namely Flat No.A, measuring 2250 sq.ft in the Ground & First Floor, at Dr.Maruthai Avenue, No.5/4, Ranjith Cross Street, Adyar, Kotturpuram, Chennai - 81, till the appeal of the petitioner in R.A.(S.A.) No.15 of 2016 on the file of the fourth respondent is heard and necessary protective order is obtained by the petitioner.

For Petitioner : Mr.E.Om Prakash
for M/s.Ramalingam & Associates

For Respondents : No appearance (for R1)

ORDER

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

Being aggrieved by the order made in S.A.No.77 of 2014, dated 25.02.2016 on the file of the Debts Recovery Tribunal-II, Chennai, the authorized officer, M/s.Kotak Mahindra Limited, Chennai, has filed RA(SA) No.15 of 2016 before the Debts Recovery Appellate Tribunal, Chennai.

2. Contending inter alia that there was no Presiding Officer in the appellate tribunal, instant writ petition has been filed for a mandamus, directing the respondents herein to maintain status quo in respect of the secured asset, namely Flat No.A, measuring 2250 sq.ft in the Ground & First Floor, at Dr.Maruthai Avenue, No.5/4, Ranjith Cross Street, Adyar, Kotturpuram, Chennai - 81, till the appeal of the petitioner in R.A.(S.A.) No.15 of 2016 on the file of the fourth respondent is heard and necessary protective order is obtained by the petitioner.

3. Material on record discloses that while ordering notice to the respondents returnable by four weeks, a Hon'ble Division Bench of this Court vide order dated 11.07.2016, has directed status quo to be maintained till

then.

4. When the instant writ petition is listed for further hearing, Mr.Om Prakash, learned counsel for the respondent bank submitted that now a Hon'ble Presiding Officer has been appointed in the Debts Recovery Appellate Tribunal, Chennai and an Interim Application has been filed seeking stay of the order of the S.A.No.77 of 2014 dated 25.02.2016, passed by the Debts Recovery Tribunal - II, Chennai.

5. Though, Mr.Om Prakash, learned counsel for the writ petitioner submitted that status quo ordered by this Court on 11.07.2016, be continued, till the writ petitioner moves the appellate tribunal, we are not inclined to accept the said contention. As of now, the Hon'ble Presiding Officer has already taken cognizance of the appeal, which is slated to be posted for hearing on 17.02.2017. Interim application for stay is stated to be pending.

6. Taking note of the subsequent events, while declining to grant the relief of mandamus, we permit M/s.Kotak Mahindra Bank Limited, Chennai / writ petitioner to move the appellate tribunal for an interim order of stay of the order made in S.A.No.77 of 2014 dated 25.02.2016, by the Debts Recovery Tribunal - II, Chennai and the Hon'ble Presiding Officer, is requested to take up the interim application and pass suitable orders or

dispose of the appeal, as the case may be, as expeditiously as possible.

7. With the above observation, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

[S.M.K., J.] [M.G.R., J.]
08.02.2017

Note to office:
Issue order copy by 09.02.2017.

Index: Yes/No.
Internet: Yes

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To

The Registrar,
Debts Recovery Appellate Tribunal,
Egmore, Chennai - 600 008.

S. MANIKUMAR, J.
AND
M.GOVINDARAJ, J.

ars

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