



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.04.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

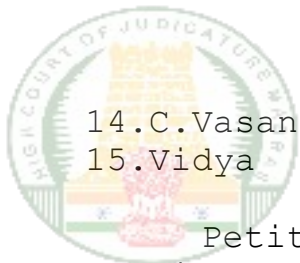
Writ Petition (MD) No.1396 of 2017

K.Packiaraj

... Petitioner

Vs.

- 1.The Lakshmi Vilas Bank Ltd.,
Rep by its Manager,
Tuticorin Branch,
Emperor Street,
Tuticorin.
- 2.The Debts Recovery Tribunal,
Rep by its Registrar,
Uthangudi,
Madurai.
- 3.The Recovery Officer,
Debts Recovery Tribunal,
Uthangudi,
Madurai.
- 4.The Superintendent of Police,
Tuticorin District,
Tuticorin.
- 5.The Inspector of Police,
North Police Station,
North Beach Road,
Tuticorin.
- 6.T.Vijayasundar,
Advocate Commissioner,
D.No.4/271, TNHB Colony,
Ettayapuram,
Tuticorin.
- 7.V.Chellapandi
- 8.V.Chellamariappan
- 9.Chellamuruganantham
- 10.V.Selvaraj
- 11.C.Dharmakrishnan
- 12.C.Dhilipan Rajan
- 13.C.Suganthi



14.C.Vasantharajan
15.Vidya

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 3 and 4 to assist the 6th respondent in executing the warrant dated 25.07.2016 within a stipulated fixed by this Court.

For Petitioner : Mr.D.Sadiq Raja
For 1st Respondent : Mr.Pala.Ramasamy
For Respondents 4&5 : Mr.S.Chandrasekar,
Government Advocate.
For Respondents 2,3,
6to 15 : No appearance

ORDER

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

The petitioner is an auction purchaser of a property which was brought for auction by the first respondent bank on account of the default committed by the respondents 7 to 15 who are borrowers of the first respondent bank.

2.The prayer sought for by the petitioner is to give police protection to the sixth respondent who is an Advocate Commissioner appointed by the Debts Recovery Tribunal, Madurai. The sixth respondent has been appointed as Advocate Commissioner who is the second Advocate Commissioner in the proceedings as the first Advocate Commissioner returned his warrant stating that he is unable to execute the same and filed his report. On a perusal of the said, we find that there was resistance for execution of warrant and one P.Swamy Ayyah who is the Advocate of one Premkumar who is interfered with the eviction process and therefore, the warrant was returned.

3.Subsequently, the Debts Recovery Tribunal, Madurai, has appointed, the sixth respondent as Advocate Commissioner who is also unable to execute the warrant till date. We find that no useful purpose would be served by appointing Advocate Commissioner for recovering possession of the property. Therefore, we discharge the warrant of the sixth respondent-Advocate Commissioner issued to him and if any expenses incurred by him, the same should be reimbursed by the first respondent bank. We further direct the Debts Recovery Tribunal, Madurai to nominate one of the officials of the first respondent bank as Commissioner/Receiver to take possession of the property. The said Officer, so nominated and appointed by the Debts Recovery Tribunal, is directed to give a petition to the fourth respondent for providing adequate police protection and on such police protection being provided, the said Officer shall execute the warrant which shall be issued by the Debts Recovery Tribunal.



4.The writ petition is accordingly disposed of. No costs.

Sd/-

Assistant Registrar(Writs)

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/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Tuticorin District,
Tuticorin.

2.The Inspector of Police,
North Police Station,
North Beach Road,
Tuticorin.

+1cc to Mr.Palaramasamy,Advocate,SR.53731

+1cc to Mr.D.Sadiqraja,Advocate,SR.53913

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER,SR.No.53930

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SMS

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