



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. [MD] .No.3102 of 2017

and W.M.P (MD) No.2477 of 2017

WEB COPY

M.MuthuLakshmi

: Petitioner

Vs.

01.THE PRESIDING OFFICER,
THE DEBT RECOVERY TRIBUNAL,
Madurai.

02.M/s. PUNJAB NATIONAL BANK,
Cantonment,
Tiruchirapalli.

03.M/s. Arul Oil Mills,
Sole Proprietorship concern,
Rep. by its proprietor,
Mr. V. Krishnasamy,
Veeramanipatti Village,
Musiri Taluk,
Trichirapalli District.

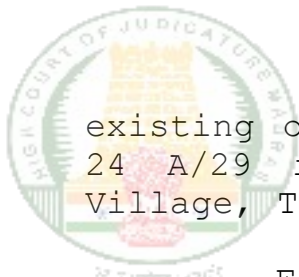
04.B.R.Gopi,

05.THE OFFICIAL RECEIVER,
Old Sub court Building,
District Court Campus, Thiruchirappalli.

06.THE RECOVERY OFFICER-I
Department of Financial Services,
(Banking Division)
Debt Recovery Tribunal,
Madurai.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records from the 1st respondent in his proceedings in OA Sr.No.227/2016 dated 28.09.2016 and quash the same and consequently forbearing the respondents or any one representing on behalf of them from in any way evict the petitioner from her possession of the property situated in T.S.No.3292, and T.S.No.3293/1 to a total extent of 1 acre 79 cents in this an



existing of 1,200 sq. feet along with the building bearing D.No. 24 A/29 in Bharathiyar Street, New S.No.6 and 7 Devanadanam Village, Trichirapalli Taluk and District.

For Petitioner : Mr.N.Sathish Babu
For R2 : Mr.S.Veera Pandian
for Vasu Law Associates

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.N.Sathish Babu, learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the second respondent bank.

2. The order impugned in this writ petition is the order passed by the Debt Recovery Tribunal in O.A.Sr.No.227 of 2016.

3. The undisputed fact is that the petitioner is not borrower whereas the respondents 3 and 4 are the borrowers against whom the second respondent bank initiated proceedings under the Provisions of the Recovery of Debts Due to Bank on Financial Institutions Act, 1993 (RDDBFI Act).

4. The respondent bank secured a decree as early as in the year 2002 and the said decree has become final as against the borrowers. Now the petitioner's case is that she is a tenant under the borrowers and seek for modification of the order as the Advocate Commissioner, who was appointed to take over the property, was attempting to enforce the order of the Tribunal. The application filed by the petitioner before the Debt Recovery Tribunal was not entertained and the impugned order rejecting the application was passed on several grounds in particular that the Tribunal has become functus officio. The findings recorded by the Tribunal is perfectly valid. The petitioner, who is not a borrower and the third party to the entire proceedings, cannot now seek for review of the order passed by the Tribunal, which was at the instance of the respondent bank against the borrowers. The Tribunal does not have power to review as the Act does not confer such power. Hence, the impugned order does not call for any interference. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected W.M.P.(MD)No. 2477 of 2017 is also dismissed.

Sd/-

Assistant Registrar (Records)

/True copy/



To

01.THE PRESIDING OFFICER, THE DEBT RECOVERY TRIBUNAL,
Madurai.

02.THE OFFICIAL RECEIVER, Old Sub court Building,
District Court Campus, Thiruchirappalli.

03.THE RECOVERY OFFICER-I, Department of Financial Services,
(Banking Division) Debt Recovery Tribunal, Madurai.

+1 CC to M/s.VAST LAW ASSOCIATES, SR No. 16005

+1 CC to M/s.N.SATHISH BABU, Advocate, SR No. 16594

CM/TSG

PSM/KP/03.04.2017/3P/6C

ORDER MADE IN
WP (MD) No.3102 of 2017
and
WMP (MD) No.2477 of 2017
20.03.2017