



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.3602 of 2017

and

W.M.P. (MD) Nos.2909 to 2911 of 2017

Mr.E.Poothapandian : Petitioner

Vs.

1. The District Collector/District Magistrate,
Tirunelveli District.

2. The Authorized Officer,
State Bank of India,
Tirunelveli Town Branch,
Tirunelveli.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent in D4/35245/2016, dated 10.02.2017 and consequently, direct them to restore possession to the petitioner after removing the lock and seal affixed upon the property in S.No.365, Ward No.7 at Sarguna Vinayagar Street, Gopalasamudram Village, Cheranmahadevi Taluk, Tirunelveli District.

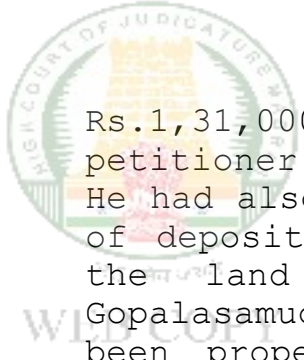
For Petitioner : Mr.C.Jeya Prakash

For Respondent No.2 : Mr.Ananth C.Rajesh

O R D E R

[Order of the Court was made by **R.SUBBIAH, J.**]

The petitioner has come up with the present Writ Petition seeking for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent in D4/35245/2016, dated 10.02.2017 and consequently, direct them to restore possession to the petitioner after removing the lock and seal affixed upon the property in S.No.365, Ward No.7 at Sarguna Vinayagar Street, Gopalasamudram Village, Cheranmahadevi Taluk, Tirunelveli District.



Rs.1,31,000/- and the same was sanctioned by the bank. The petitioner had also executed all the loan documents on 12.11.2008. He had also deposited the title deeds with the bank and memorandum of deposit of title deeds was made on 12.11.2008 with regard to the land and building of 466.03 sq.ft in S.No.365 at Gopalasamudram Village, Tirunelveli District. The petitioner has been properly repaying the installments towards the term loan account as agreed. However, due to the failure of monsoon, he failed to pay certain installments. In the meantime, a notice under Section 13(2) of SARFAESI Act was issued on 21.12.2010. After receiving the notice, the petitioner had repaid certain amount towards the loan account. But, without considering the same, the second respondent filed an application to take physical possession of the secured asset before the first respondent. The first respondent passed an adverse order on 10.02.2017 without conducting proper enquiry and without hearing the petitioner. Pursuant to the said order, the second respondent bank forcibly evicted the petitioner and his family from the residential house and put up lock and seal on the property in question. Hence, the petitioner has come forward with the present Writ Petition for the reliefs as stated above.

3. Today, when the matter was taken up for consideration, the learned counsel for the second respondent bank opposed the prayer to remove the lock and seal stating that as on date, a sum of Rs.2,01,000/- is due from the petitioner.

4. However, the learned counsel for the petitioner submitted that he has brought two demand drafts for a sum of Rs.40,000/- and Rs.10,000/- today and further, he has submitted that the petitioner would pay the balance amount of Rs.1,51,000/-, within a period of six weeks. Hence, he sought for a direction to the respondents to remove the lock and seal affixed on the property in S.No.365, Ward No.7 at Sarguna Vinayagar Street, Gopalasamudram Village, Cheranmahadevi Taluk, Tirunelveli District.

5. In view of the submissions made by the learned counsel on either side, this Court is inclined to pass the following order:

"The petitioner is directed to hand over the demand drafts for a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the second respondent bank. The petitioner is further directed to pay the balance amount of Rs.1,51,000/- [Rupees One Lakh and Fifty One Thousand only], to the second respondent bank, within a period of six weeks from today. On receipt of the demand drafts for a sum of Rs.50,000/- (Rupees Fifty Thousand only) from the petitioner, the second respondent bank is directed to remove the lock and seal affixed on the property in S.No.365, Ward No.7 at Sarguna Vinayagar Street, Gopalasamudram Village, Cheranmahadevi Taluk, Tirunelveli District, forthwith."



6. The Writ Petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The District Collector/District Magistrate,
Tirunelveli District.

+1cc to MR.Ananth C.Rajesh, Advocate, SR.No.12120

+1cc to MR.C.Jeyaprakash, Advocate SR.No.12083

Order made in
W.P. (MD) No.3602 of 2017
Dated: 02.03.2017

MS-JM-SAR 2/2.3.2017/3P-4C