

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P.No.23572 of 2018
and W.M.P.Nos.27525 and 27526 of 2018

R.Suresh Kumar ... Petitioner

Vs.

1.Indian Bank,
rep. by Authorised Officer,
ARM Branch,
Coimbatore.

2.The District Magistrate and District Collector,
Tiruppur District,
Tiruppur.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records in respect of the impugned order passed by the second respondent in Ref. No.14422/2016/C3, dated 16.04.2018 and quash the same as illegal and consequently forbear the first respondent, their men, agents from interfering with the physical possession of the petitioner and from in any manner evicting the petitioner from the piece and parcel of the land and building situated at Survey No.94/2 with an extent of 6.03 $\frac{1}{4}$ acres as per patta No.599 in Jothipalayam, Kannamanaickanur Village, Udumalpet SRO, Tiruppur Registration District except following due process of law.

For Petitioner : Mr.S.Sivanandam

For Respondents: Mr.P.K.Panneerselvam
for 1st respondent

Mr.Kamalesh Kannan.S
for 2nd respondent

O R D E R
(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records in respect of the impugned order passed by the second respondent in Ref. No.14422/2016/C3, dated 16.04.2018 and quash the same as illegal and consequently forbear the first respondent, their men, agents from interfering with the physical possession of the petitioner and from in any manner evicting the petitioner from the piece and parcel of the land and building situated at Survey No.94/2 measuring an extent of 6.03 $\frac{1}{4}$ acres as per Patta No.599 in Jothipalayam, Kannamanaickanur Village, Udumalpet SRO, Tiruppur Registration District except following due process of law.

2. Admittedly, the petitioner has got alternative remedy before the Debts Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act'). Instead of exhausting the alternative remedy, the petitioner has challenged the impugned order dated 16.4.2018 before this Court under Article 226 of the Constitution of India.

3. When the writ petition is taken up for hearing, the learned counsel for the petitioner submitted that instead of going into the merits of the impugned order dated 16.4.2018, it would suffice to give liberty to the petitioner to challenge the impugned order dated 16.4.2018 before the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

4. Mr.P.K.Panneerselvam, learned counsel accepts notice on behalf of the first respondent and submitted that the petitioner is only a lessee and he has not established his leasehold rights in respect of the property in dispute.

5. Having regard to the submissions made by the learned counsel on either side, since the petitioner has got alternative remedy before the Debts Recovery Tribunal, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. However, it is open to the petitioner to challenge the impugned order dated 16.4.2018 before the Debts Recovery Tribunal in accordance with law. The respondents are directed to maintain status quo for a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, W.M.P.Nos.27525 and 27526 of 2018 are closed.

Sd/-

Deputy Registrar

//True Copy//

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To

1.The District Magistrate and District Collector,
Tiruppur District,
Tiruppur.

+1cc to Mr.S.Sivanandam, Advocate SR.NO.62437

+1cc to Mr.P.K.Panneer Selvam, Advocate SR.NO.62334

sm:10.9.2018

W.P.No.23572 of 2018



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