

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.14399 of 2018
and

W.M.P.Nos.16999 and 17000 of 2018

1.M/s.Naihaa Retail Pvt. Ltd.,
Reg. Office at Old No.31, New No.20,
Rajabathar Street,
T.Nagar, Chennai - 600 017.
2.R.Aravind,
3.R.Suseela,
4.A.Malliga ... Petitioners

Vs.

1.Pridhvi Asset Reconstruction and Securitisation
Company Ltd.,
D.No.1-55, 'Raja Praasadamu', 4th Floor,
Masjid Banda Road,
Kondapur,
Hyderabad - 500 034
Rep. by power of Attorney Shri.M.S.Hussain.

2.D.Cholan,
Advocate-Commissioner,
No.8/76, Thulasisingam Street,
Pudupet, Chennai.

3.The Chief Metropolitan Magistrate,
Allikulam,
Chennai - 600 003.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the Respondents 1 and 2 or their men or agents or assigns or legal representatives or anyone claiming under them from in any manner remove or dispose-off any or all the movable properties appended in the inventory attached to the e-mail Notice dated 22/5/2018 issued by the 2nd respondent and consequently, direct the Respondents 1 and 2 to remove the lock and seal fastened in the premises at No.6, Somasundaram Street,

T.Nagar, Chennai - 600 017 forthwith so as to enable the petitioners to remove all and whatever movable properties including those appended in the inventory attached to the e-mail Notice dated 22/5/2018 issued by the 2nd Respondent from the said premises within a time duration.

For Petitioners: Mr.R.Nagasundaram

For R1 : Mr.Srinath Sridevan

For R2 : Mr.D.Cholan
(Advocate Commissioner)

ORDER

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

In an application filed under Section 14 of the SARFAESI Act, 2002, seeking assistance, for taking physical possession of the secured asset, the learned Chief Metropolitan Magistrate, Chennai, vide order, dated 08.02.2016 in Crl.M.P.No.356 of 2016, appointed an Advocate Commissioner, to take possession of the schedule mentioned property therein, after taking inventory, if necessary with the assistance of the Station House Officer, R4 Pondy Bazaar Police Station, Chennai, and to hand over the same to Pridhvi Asset Reconstruction and Securitisation Company Limited, Hyderabad, represented by its Authorised Officer/first respondent herein. Schedule of properties mentioned therein, comprises four items of properties. For brevity, the same is extracted hereunder:-

"SCHEDULE

Item:1

All that piece and parcel of land and building consisting of ground +4 floors (including terrace floor) admeasuring 16825 sq.ft. (approx.) bearing Old Door No.31, New Door No.29, Rajabather Street, T.Nagar, Chennai-600 017 constructed in an extent of 3 grounds and 1954 sq.ft. or thereabouts, comprised in Plot No.65, Block No.19, Survey Nos..72/3-71 and 113 parts, T.S.No.7126, Block No.115 of Thyagaraya Nagar Revenue Division, Mambalam-Guindy Taluk, Chennai District belonging to Shri.R.Aravind and Smt.R.Suseela.

Item:2

All that piece and parcel of the land and residential building consisting of ground + 2 floors admeasuring 6700 sq. ft. (approx.) at Plot No.6, Somasundaram Street, T.Nagar, Chennai-600 017 constructed in an extent of 2 grounds situated within jurisdiction of Sub-Registrar of Thyagaraya Nagar comprised in Survey Nos.103/1 and 103/3, Present T.S.No.5131, Block No.118 of Thyagaraya Nagar Revenue

Division, Chennai District.
belonging to Smt.R.Suseela
Item:3

All that piece and parcel of the land and building bearing Old Door No.21, New Door No.5 and 5/2, Rajabather Street, T.Nagar, Chennai-600 017 in an extent of 1794 sq. ft. (598 sq. ft. + 1196 sq. ft.) comprised in R.S.No.113, T.S.No.6762 part Block No.115 of Thyagaraya Nagar Revenue Division, Mambalam-Guindy Taluk, Chennai District.
belonging to Shri.R.Aravind
Item:4

All that piece and parcel of the land building bearing Old Door No.29, New Door No.54, Pondy Bazaar, Sir Thyagaraya Nagar Road, T.Nagar, Chennai-600 017 of an extent of 900 sq.ft. or thereabouts, comprised in Block No.115, Town Survey Nos.4920/2 of Thyagaraya Nagar Revenue Division, Mambalam-Guindy Taluk, Chennai district.
belonging to R. Aravind"

2. Pursuant to the order of the learned Chief Metropolitan Magistrate, Chennai in Crl.M.P.No.356 of 2016, dated 08.02.2016, Mr.D.Cholan, learned Advocate Commissioner, Chennai, has executed the warrant of commission on 21.02.2018, with the assistance of police. Inventory taken at the premises located at Plot No.6, Somasundaram Street, T.Nagar, Chennai - 600017, is extracted hereunder:-

INVENTORY

Inventory of items at the premises located at plot no.6, Somasundaram Street, T.Nagar, Chennai - 600017.

"GROUND FLOOR"

A) Hall

1.Dining Table with 8 Chairs, 2.Sofa (12), 3.Split AC (4), 4.LG TV, 5.Wooden Small cupboards (2), 6.Painting, 7.Ceiling Fan (7), 8.Centre Tables (2), 9.Chandelier, 10.Indoor Swing, 11.Wall Clock, 12.Photos of Gods (6).

B) ROOM BEHIND HALL - ADJACENT TO KITCHEN

13.Samsung Microwave Oven, 14.Chimny, 15.Samsung Refrigerator, 16.Westpoint Refrigerator - Small.

C) KITCHEN

17. Gas Stoves (2), 18.Cylinders (3), 19.Utensils, 20.Grinder, 21.Mixer.

D) STORE ROOM

22.Utensils, 23.Cupboard, 24.Iron Rack, 25.Cylinder, 26.Bed Roll

E) BED ROOM

27.Steel Alamarah, 28.Split AC,

29.Wooden Dining Table, 30.Wooden Alamarah,
31.Cot with Bed and Pillows.

F) OFFICE ROOM

32. Apple Monitor, 33.Monitor with
CPU, keyboard, & printer, 34.Desks(3), 35.Chairs
(6), 36.Wooden Sofa(2), 37.Centre Table,
38.Tanjore Paintings, 39. Wooden Cali met.

G) SERVANT ROOM

40.Utensils, 41.Cylinders (4).

FIRST FLOOR

(A) HALL

42.Sofa (4), 43.Removed Ceiling Fan,
44.Pached Cartoons (2), 45.Tanjore paintings,
46.Chairs (4), 47.Centre Table.

(B) BEDROOM

48.Cot with bed along with a single
iron bed, 49.Wooden Almarah, 50.Split AC,
51.Ceiling Fan, 52.Mirror, 53.TV, 54.Sofa (2),
55.Centre Table, 56.Table Fan.

(C) BEDROOM

57.Plastic Boxes, 58.Cot with Bed,
59.Plastic Chairs (2), 60.Monitor (2).

D) BEDROOM

61.Cot with Bed, 62.Sofa (3), 63.TV
(4), 64.Speakers (2),

SECOND FLOOR

(A) BED ROOM

65.Cot with Bed

(B) TERRACE

66.Iron Tables.

3. Contending inter alia that, the petitioner is unable to find suitable premises to accommodate the entire articles stated supra, either on rent or on permission, the petitioner seeks for a reasonable time. Hence, he has filed the instant writ petition for forbearing the Respondents 1 and 2 or their men or agents or assigns or legal representatives or anyone claiming under from in any manner remove or dispose of any or all the movable properties appended in the inventory attached to the e-mail Notice dated 22/5/2018, issued by the 2nd respondent and consequently, direct the Respondents 1 and 2 to remove the lock and seal fastened in the premises at No.6, Somasundaram Street, T.Nagar, Chennai - 600 017 forthwith so as to enable the petitioners to remove all and whatever movable properties including those appended in the inventory attached to the e-mail Notice dated 22/5/2018 issued by the 2nd Respondent from the said premises within a time duration.

4. Added further, Mr.R.Nagasundaram, learned counsel for the petitioners also expressed sentiments of the writ petitioners, being dispossessed and prayed for a direction, for restoration of possession, for a period of two months.

5. Considering the limited prayer sought for, we directed the learned counsel for the petitioners, to serve the entire cause papers on Mr.Srinath Sridevan, who has appeared for Pridhvi Asset Reconstruction and Securitisation Company Limited, Hyderabad / first respondent herein, in the Tribunal.

6. Both the learned counsel for the parties submitted that Mr.D.Cholan, learned Advocate Commissioner, who had taken physical possession of the movable properties, items 1 to 4 therein, with the inventory, stated supra, has not handed over the same to the bank. He has filed interim report, before the learned Chief Metropolitan Magistrate, Chennai.

7. Though, contentions are made, for restoration and retention of the premises, as stated supra, after deliberation, both the learned counsel for the parties, have arrived at a consensus that the petitioners would remove the entire movables, under inventory, as stated supra on or before 27.06.2018.

8. Both the learned counsel for the parties, shall communicate the orders of this Court to Mr.D.Cholan, learned Advocate Commissioner, to facilitate, compliance and for removal of the articles. Mr.D.Cholan, learned Advocate Commissioner, shall take all steps, for implementation.

9. With the above directions, the instant writ petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

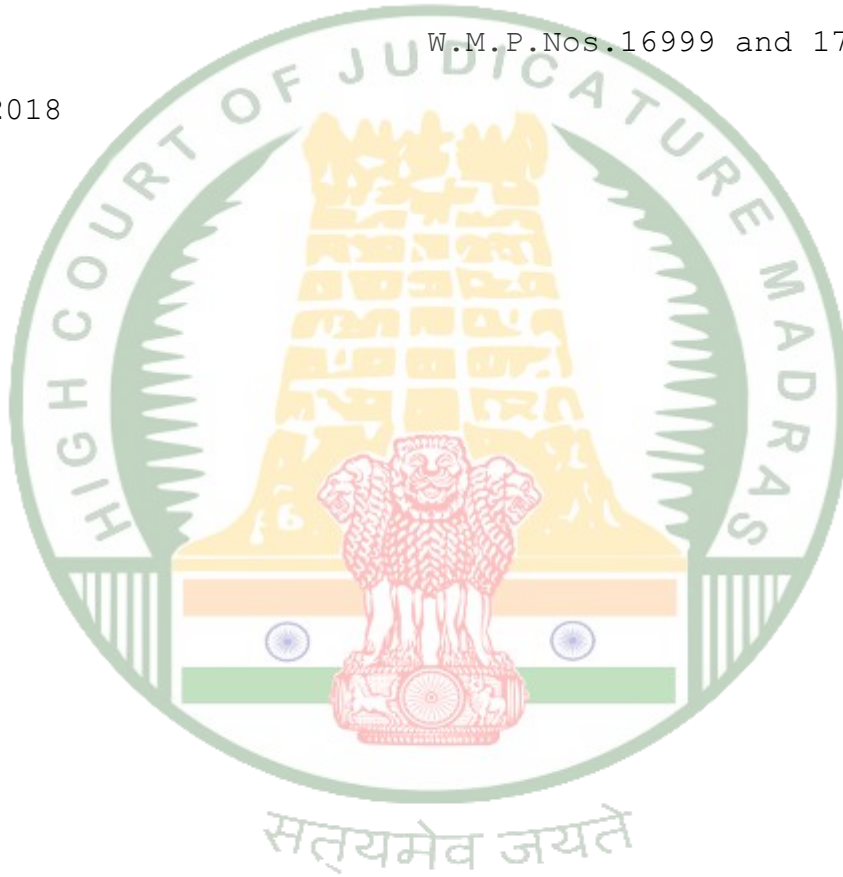
The Chief Metropolitan Magistrate,
Allikulam,
Chennai - 600 003.

+1cc to Mr.Srinath Sridevan, Advocate sr.no.37727
+1cc to Mr.R.Nagasundaram, Advocate sr.no.37581

W.P.No.14399 of 2018
and

W.M.P.Nos.16999 and 17000 of 2018

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