



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 21.02.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
AND  
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD).No.10015 of 2016  
and  
W.M.P(MD)No.7879 of 2016

A.Kuthupullasa ... Petitioner  
Vs.

1.The District Collector/District Magistrate,  
Collectorate Campus,  
Madurai,  
Madurai District.

2.The Authorised Officer/Chief Manager,  
Karu Vysya Bank Limited,  
Madurai South Branch,  
South Masi Street,  
Madurai.

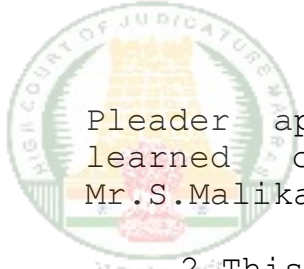
3.S.Sulaiman ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent herein to consider the petitioner's representation, dated 24.08.2015 and implead the petitioner and afford opportunity in proceedings under Section 14 of SARFAESI Act in C3/5662/14 preferred by the second respondent.

|                |                                                         |
|----------------|---------------------------------------------------------|
| For Petitioner | : Mr.D.Nallathambi                                      |
| For R - 1      | : Mr.D.Muruganandham,<br>Additional Government Pleader. |
| For R - 2      | : Mr.Pala Ramasamy                                      |
| For R - 3      | : Mr.S.Malaikani                                        |

O R D E R

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



Pleader appearing for the first respondent, Mr.Pala Ramasamy, learned counsel appearing for the second respondent and Mr.S.Malihakni, learned counsel appearing for the third respondent.

2.This writ petition has been filed praying for issuance of writ of mandamus to direct the first respondent to consider the petitioner's representation, dated 24.08.2015 and to implead the petitioner and afford an opportunity in the proceedings under Section 14 of the SARFEASI Act, filed by the second respondent. Proceedings have been initiated by the second respondent to proceed against the property in question for recovery of the loan payable by the third respondent.

3.On perusal of the affidavit filed in support of the writ petition and the documents filed, we find that the property is subject matter of several litigation and there are several proceedings, some of which have culminated before this Court. Apart from that, the petitioner has filed SARFEASI appeal challenging the notice issued under Section 13(4) of the SARFEASI Act and consequential, sale proceedings before the Debts Recovery Tribunal, Madurai. The Debt Recovery Tribunal initially did not number the appeal and it was assigned with S.A.S.R No.10253 of 2015 and the matter was argued.

4.The learned counsel for the petitioner submits that the criminal proceedings has been launched against the third respondent and others on the ground that they have absolutely no right to deal with the properties.

5.In our considered view that no useful purpose would be served by directing the District Collector to adjudicate upon the disputed questions of fact, which will involve interpret action of the orders and judgments passed by the Civil Court as well as this Court. This exercise for the present is unnecessary as the petitioner's SARFEASI appeal has to be numbered and decided on merits. Therefore, the second respondent bank shall initiate further proceedings before the first respondent after S.A.S.R No.10253 of 2015 is decided and then proceed in accordance with law.

6.Considering the factual position, we opine that the petitioner has to establish that he is a proper and necessary party to the proceedings that may be initiated by the respondents before the first respondent, after the Debts Recovery Tribunal takes a decision on the petitioners appeal.

7.The learned counsel for the petitioner submitted that the second respondent bank had filed a Original Petition before the Debts Recovery Tribunal, Madurai in O.A.No.120 of 2002 and obtained Recovery Certificate against the third respondent. In the said original application, the second respondent bank has filed an application in R.P.No.296 of 2007 and thereafter, the writ petitioner has filed a claim petition in I.A.Nos.223 and 224 of 2009

and the same are pending before the Debt Recover Tribunal, Madurai.

8. Considering the long drawn litigation in the matter, we direct the Debts Recovery Tribunal, Madurai to dispose of the S.A.S.R No.10253 of 2015, R.P.No.296 of 2007 and I.A.Nos.223 & 224 of 2009, as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order. It is made clear that the petitioner and the third respondent should co-operate with the Debts Recovery Tribunal, Madurai in the early disposal of these applications.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1 The Presiding Officer, Debt Recovery Tribunal, Madurai.

2. The District Collector/District Magistrate,  
Collectorate Campus,  
Madurai,  
Madurai District.

3. The Authorised Officer/Chief Manager,  
Karu Vysya Bank Limited,  
Madurai South Branch,  
South Masi Street,  
Madurai.

+1CC to Mr.D.Nallathambi, Advocate, SR.No. 50292

+1CC to Mr.Pala Ramasamy, Advocate, SR.No. 50311

+1CC to Mr.S.Malaikani, Advocate, SR.No. 50524

+1CC to the Special Government Pleader SR.No.50592

W.P.(MD).No.10015 of 2016

21.02.2018

Ns

AM/JC/SAR 2/02.04.2018/3P/8C