



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2018

CORAM:

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

Writ Petition (MD).No.6377 of 2017
and
W.M.P (MD) .Nos.5023 of 2017

P.Pugalendhi

... Petitioner

Vs .

1. The Authorized Officer/Chief Manager,
Indian Bank,
Usilampatti Branch.

2. The Branch Manager,
Indian Bank,
Thevaram Branch,
65, Pallivasal Street,
Thevaram,
Uthampalayam Taluk.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a writ of certiorari, calling for the records relating with the impugned possession notice dated 23.03.2017, issued by the first respondent, relating with the petitioner's agricultural lands measuring 18 cents in S.No.349/2, 1 Acre 99 Cents in S.No.351/2, 1 Acre 32 Cents in S.No.351/4, 89 Cents in S.No.351/5 and 88 Cents in S.No.351/6, totalling Punja lands measuring 5 Acre 08 Cents in Thevaram Village in Uthamapalayam Taluk in Theni District an quash the same as it is illegal and against Section 31(i) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.Pala Ramasamy

**ORDER**

(Order of the Court was made by T.S.SIVAGNANAM,J.)

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Heard Mr.R.Suriyanarayanan, learned counsel appearing for the petitioner and Mr.Pala Ramasamy, learned counsel appearing for the respondents.

2.The petitioner is challenging the impugned notice issued by the third respondent Bank taking over the symbolic possession of the property which is offered as security by the petitioner to secure the loan transaction availed with the respondent Bank. The petitioner is before this Court by way of this writ petition stating that the lands are agricultural land and therefore, the provision of SARFAESI Act are not applicable.

3.The learned counsel appearing for the respondent Bank has placed before this Court the decision in the case of **Kalpesh P.C. Surana v. Indian Bank** reported in Writ Petition No.21759 of 2009 and in another case of **M/s. E.I.D.Parrry(India) Limited v. New Horizon Sugar Mills Ltd Rep. By its Director V.Kannan and Ors. and The Authorized Officer Indian Bank and The Chief Manager Indian Bank v. The Debts Recovery Appellate Tribunal and Ors.**

4.All the averments are to the effect that the relief sought for by the petitioner cannot be entertained in the writ petition. Further more, the question as to whether the land is an agricultural land and as to whether the loan is agriculture loan cannot be gone into and decided by the Writ Court. Thus, by applying the aforementioned decision, we are left with no other option except to dismiss the writ petition.

5.The learned counsel for the petitioner would plead that the petitioner is a small agriculturalist; that there is a thatched hut in the property and that the intention of the petitioner is to settle the loan amount, provided the respondent Bank extends some relief by way of waiver in interest. Thus while holding that the writ petition is not maintainable against Bank, we direct the respondent Bank to defer further coercive action pursuant to the impugned action upto 29.03.2018. The petitioner is directed to approach the respondent Bank by appearing before the Manager on 12.03.2018 and give appropriate proposal which if reasonable can be considered. Otherwise opportunity can be granted to the petitioner till 29.03.2018 to settle the outstanding, failing which the respondent Bank shall proceed further pursuant to the impugned possession notice. If the petitioner is unwilling to give any proposal for settlement, then the benefit of the above direction will not accrue to the petitioner as the Court had directed the respondent Bank to keep in abeyance the proceedings pursuant to the impugned notice till 12.03.2018 and if the petitioner is not able to



secure any order from Debts Recovery Tribunal, the respondent Bank shall proceed against the petitioner property for recovery.

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

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

- + 1 CC TO Mr.R.SURIYANARAYANAN, ADVOCATE IN SR No. 51880
- + 1 CC TO Mr.PALARAMASAMY, ADVOCATE IN SR No. 51829

MRN/RMK

TE/KK/SAR-4 : 22/03/2018 : 3P/3C

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