



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.02.2018

CORAM

WEB COPY

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

W.P.(MD).No.24756 of 2016 and
W.M.P.(MD).No.17893 of 2016 and
W.P.(MD).No.3870 of 2018 and
W.M.P.(MD).No.4034 of 2018

W.P.(MD).No.24756 of 2016

Mrs.S.Vijayalakshmi

... Petitioner

Vs.

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Sub-Collector/Revenue Divisional Officer,
Tuticorin,
Collectrate Compound,
Korampallam,
Tuticorin.
3. The Authorised Officer,
Tamilnad Mercantile Bank Ltd.,
Tiruchendur Road Branch,
Kamaraj College Campus,
Tiruchendur Road,
Tuticorin-628 003.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent made in ந.க.பு.4/10531/2016 dated 08.12.2016 and quash the same as devoid of merits an consequently, direct the respondents to desist all further proceedings under SARFEASI Act till the finalization of the rights of the insane person Mr.S.Mayandi, S/o.Late.M.Shanmugam, who is having share in the mortgaged property.

W.P.(MD).No.3870 of 2018

<https://hcservices.courts.gov.in/hcservices/>

S.Mayandi (Insane Person)
Rep by the natural guardian and
mother Vijayalakshmu

... Petitioner

**Vs.**

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Sub-Collector/Revenue Divisional Officer,
Tuticorin,
Collectrate Compound,
Korampallam,
Tuticorin.
3. Tamil Nadu Mercantile Bank Ltd.,
Rep by its the Managing Director cum CEO
No.57, V.E.Road,
Tuticorin-628 002.
4. The Authorised Officer,
Tamilnad Mercantile Bank Ltd.,
Tiruchendur Road Branch,
Kamaraj College Campus,
Tiruchendur Road,
Tuticorin-628 003.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent made in ந.க.ஆ.1/3204/2016 dated 17.01.2018 and quash the same as devoid of merits an consequently, direct the respondents to desist all further proceedings under SARFEASI Act till the finalization of the rights of the insane person Mr.S.Mayandi, S/o.Late.M.Shanmugam, who is having share in the mortgaged property, based on the petitioner's representation dated 07.09.2017.

For Petitioners : Mr.K.Mahendran in WP(MD)No.24756/2016
Mr.P.Arun Jayatram in WP(MD)No.3870/2018

For R1 and R2 : Mr.V.R.Shanmuganathan
Special Government Pleader
in WP(MD)No.24756/2016

: Mr.S.Dayalan, Government Advocate
in WP(MD)No.3870/2018

For R3 in WP(MD)No.24756/2016 and

For R3 and R4 in WP(MD)No.3870/2018 : Mr.N.Dilipkumar

**COMMON ORDER**

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

Heard Mr.K.Mahendran, learned counsel appearing for the petitionerS and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.N.Dilipkumar, learned counsel appearing for the third respondent.

2.The petitioner in W.P.(MD)No.24756 of 2016 is Tmt.S.Vijayalakshmi, W/o.Late Shanmugam and she is the natural guardian of the petitioner in W.P.(MD)No.3870 of 2018, who is stated to be an insane person and who is her son. The list of dates and events furnished by the learned counsel for the respondent clearly shows that the petitioners have exhausted all remedies before all forums. More particularly, they were approached Debt Recovery Tribunal, Madurai in S.A.SR.No.3082 of 2015 and though the conditional order was passed, the petitioner Tmt.S.Vijayalakshmi, failed to comply with the same. Subsequently, representation was given to the Finance Ministry. In the mean time, the respondent Bank has taken over the possession of the property and issued sale notice and proceeded with the same. The sale notice was challenged by the petitioner's elder son viz., S.Maheswaran in W.P.(MD)No.18597 of 2014, which was dismissed by order dated 18.11.2014. Subsequently, the said Maheswaran approached Legal Aid Cell, Thoothukudi and in the mean time, the application filed by the Bank before the District Collector, Thoothukudi under Section 14 of the SARFEASI Act, was ordered on 08.12.2016. Once again, the petitioner Tmt.S.Vijayalakshmi, challenged the said order by filing W.P.No.24756 of 2016, a conditional order of stay was ordered in W.M.P.(MD).No.17893 of 2016 in W.P.(MD).No.24756 of 2016, dated 23.12.2016. However, the said conditional order was not complied with and when intimation was sent by District Collector to take physical possession of the property, the present writ petition has been filed.

3.Thus in the facts and circumstances of the case, we cannot entertain the present writ petition at the instance of Tmt.S.Vijayalakshmi, both in her individual capacity and in the capacity of natural guardian and the mother of S.Mayandi.

4.For the above reasons, the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CO)

/True Copy/



To

1. The District Collector,
Tuticorin District,
Tuticorin.

2. The Sub-Collector/Revenue Divisional Officer,
Tuticorin,
Collectrate Compound,
Korampallam,
Tuticorin.

+ 1 CC TO Mr.K.MAHENDRAN, ADVOCATE IN SR No. 51527
+ 1 CC TO Mr.P.ARUNJAYATRAM, ADVOCATE IN SR No. 52178
+ 2 CC TO Mr.N.DILIP KUMAR, ADVOCATE IN SR Nos. 51533 & 51534
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 51950

NS

TE/SKN-RSK/SAR-2 : 08/03/2018 : 4P/8C

W.P.(MD).No.24756 of 2016 and
W.M.P.(MD).No.17893 of 2016 and
W.P.(MD).No.3870 of 2018 and
W.M.P.(MD).No.4034 of 2018
27.02.2018