

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.15424 of 2009

M.Loganathan

...Petitioner

Vs.

- 1.The District Collector,
Chennai District.
- 2.The District Revenue Officer,
O/o.District Collector,
Rajaji Salai, 4th Floor,
Chennai District, Chennai.
3. The Tahsildar,
Fort-Tondiarpet Taluk,
Chennai-600 003.
4. M/s.G.N.S.Nidhi & Devi Gold House,
Depositors Association,
Rep. By its Secretary,
No.31, Vaidyanar Street,
T.Nagar, Chennai-600 017.
5. The Registrar,
Debt Recovery Tribunal,
Anna Salai, Chennai.
6. Central Bank of India,
rep. By its Senior Manager,
Mount Road Branch,
No.834, Anna Salai,
Chennai-600 002.

... Respondents

[R4 to R6 Impleaded as per order dated 20.08.2010]
made in MP.Nos.2 & 3 of 2019 in W.P.No.15424/2009]

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, forbearing the respondents herein, their men and subordinates from in any manner interfering with the petitioner's possession and enjoyment of the premises bearing New Door No.657, Old Door

No.206, Thiruvottriyur High Road, Tondiarpet, Chennai-600 081, measuring to an extent of 3268 sq.ft. (as per patta 2857 sq.ft.) and running a Marriage Hall under the name and style of "Loganathan Marriage Hall", except by due process of law.

For Petitioner : Mr.S.Prabhakaran for
Mr.Prem Kumar

For Respondents: Mr.I.Sathish, AGP for R1 to R3
Mr.S.Ramesh for R4
Tribunal-R5
Mr.K.Rajasekaran for R6

O R D E R

Heard Mr. S.Prabhakaran, learned counsel for the petitioner and Mr.I.Sathish learned Additional Government Pleader for respondents 1 to 3, Mr.K.Rajasekaran, learned counsel for Respondent 6 and perused the materials available on record.

2.The prayer in the writ petition is to issue a Writ of Mandamus forbearing the respondents herein, their men and subordinates from in any manner interfering with the petitioner's possession and enjoyment of the premises bearing New Door No.657, Old Door No.206, Thiruvottriyur High Road, Tondiarpet, Chennai-600 081, measuring to an extent of 3268 sq.ft. (as per patta 2857 sq.ft.) and running a Marriage Hall under the name and style of "Loganathan Marriage Hall" except by due process of law

3.The petitioner would claim that he is the absolute owner of the property referred to above and running a Marriage Hall under the name and style of 'Loganathan Marriage Hall'. The original owners viz., N.M.Karunakaran and his wife K.Nagabooshanam have borrowed money from the Central Bank of India, Anna Salai Branch, Chennai, by mortgaging the property and for non-payment of the loan amount, recovery proceedings were initiated by the Debt Recovery Tribunal No.1, Chennai by filing an application in O.A.No.1301 of 2000. The petitioner has purchased the property in the public auction conducted by the Debt Recovery Tribunal.

4.Mr.K.Premkumar, learned counsel for the petitioner would state that the Government of Tamil Nadu invoking Section 3 of Tamil Nadu Protection of Interest of Depositors Act, 1997, issued an interim order of attachment, in respect of the property in dispute. Hence, the Central Bank of India, Chennai, filed an application in O.A.No.32 of 2008 before the TNPID Act Court to raise an ad-interim order of attachment and the same was allowed on 02.11.2009. Since the petitioner had an

apprehension of interference for his peaceful possession by the respondents, this writ petition has been filed.

5. Mr.I.Sathish, learned Additional Government Pleader would submit that the Devi Gold House had collected Fixed Deposit from the public in the year 1994 and for default of repayment of Fixed Deposits, criminal proceedings were initiated against the Finance Company and also interim order of attachment was passed by the Government by issuing G.O.Ms.No.554, Home (Court 11A) Department, dated 27.08.2002. He would further submit that the competent authority filed an application in O.A.No.47 of 2008 before the Special Court to make interim attachment absolute and at the same time, the Central bank of India also filed the application in O.A.No.32 of 2008 to raise the attachment in respect of the property in dispute. The learned Additional Government Pleader would also submit that the interim order of attachment made in respect of the property of the petitioner was also raised. Against that order, the competent authority has not filed any appeal. Hence, the respondents would not interfere with the possession and enjoyment of the property in dispute.

6. In the light of the above submission made by the learned Additional Government Pleader, this writ petition is allowed as prayed for. No costs.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

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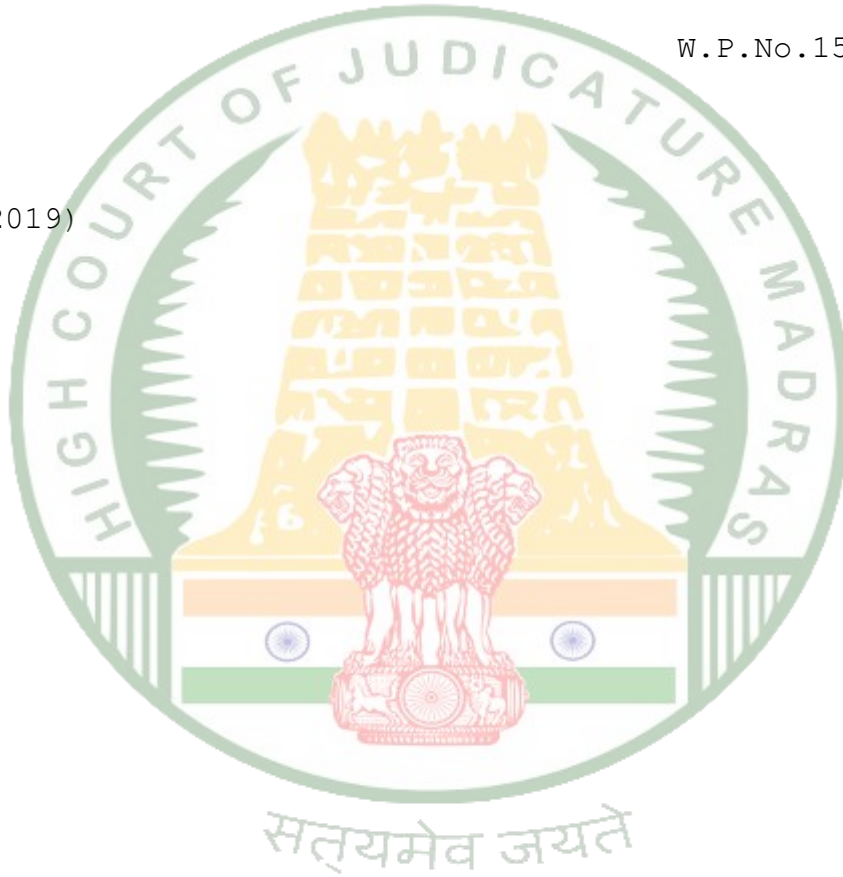
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+1 CC to Govt. Pleader sr 72108
+1 CC to Mr.K.Rajasekaran, Advocate sr 71701.

W.P.No.15424 of 2009

RSI (CO)
SP(30/10/2019)



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