

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2019

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
And
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.13842 of 2019
and
W.M.P.Nos.13919, 13921 and 13923 of 2019

Sri Vakirakaaliamman Spinning Mills Pvt Ltd.,
Shri.R.Jagadeeswaran,
Director / Guarantor,
No.14 R.M. Illam,
Thennampalayam Extension Cross St.,
Tiruppur-641 604 Petitioner

Vs.

1. State Bank of India
Rep by its Authorised Officer,
Stressed Assets Management Branch,
1112, Raja Plaza, Avinashi Road,
Coimbatore - 641 037.
2. Punjab National Bank,
Rep by its Authorised Officer
Asset Recovery Management Branch,
No.448-A, Dr.Nanjappa Road,
Coimbatore-641 018.
3. State Bank of India,
Rep by its Authorised Officer,
(Formerly State Bank of Hyderabad)
Stressed Assets Management Branch
1112, Raja Plaza, Avinashi Road,
Coimbatore - 641 037.
4. State Bank of India,
Rep by its Authorised Officer,
(Formerly State Bank of Patiala)
Stressed Assets Management Branch
1112, Raja Plaza, Avinashi Road,
Coimbatore - 641 037.

5. Mr.D.A.Damodaran & M.Shanmugasundaram ... Respondents
Prayer:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent herein sale certificate issued item No.3 of the property dated 12.01.2018 infavour of the fifth respondent is illegal and quash the same and consequential direction to direct the respondents 1 to 4 to re-value the properties and consider under the one time settlement as per the representation dated 18.05.2018.

For Petitioner : Mr.K.Rajendra Prasad

For Respondents: Mr.P.Elaya Rajkumar
for M/s.Ramalingam Associates
for R1,R3 & R4

O R D E R

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

The petitioner has come forward challenging the sale certificate dated 12.01.2018. The rights of the petitioner have been protected by an order of this Court dated 14.06.2018 in W.P.Nos.11709 and 12192 of 2018 wherein, it has been observed as follows:

"6. The impugned order does not record the submissions nor does it give any reason to reject the same. In view of the above, impugned orders, dated 09.03.2018 and 10.04.2018, passed in AIR No.78 of 2018, are set aside and the appeals are remanded back, to the Debts Recovery Appellate Tribunal, Chennai, for consideration, on merits and in accordance with law, within a period of two weeks, from the date of receipt of a copy of this order.

7. The petitioner has also prayed for a consequential direction, to direct the respondents, to revalue all the properties, which were brought for auction. Such a prayer is not maintainable and cannot be granted and is liable to be dismissed.

8. This Court on 09.05.2018, while entertaining the writ petition, ordered as under:-

"Any sale of the property shall be subject to further orders of this Court in the writ petition."

9. Interim order granted on 09.05.2018, stands vacated. No Costs. Consequently, the connected Miscellaneous petitions are closed."

2. When the petitioner has got remedy before DRT and thereafter before DRAT, under the pretext that the ancestral properties are tried to be usurped by the Bank, its contention cannot be accepted as the contention of the petitioner and the respondents is word against word and it is for the DRT and DRAT to decide the factual aspect and this Court cannot go into the factual submission under Article 226 of the Constitution of India.

3. When the rights of the petitioner has been protected by means of the order dated 14.06.2018 in W.P.Nos.11709 and 12192 of 2018, the following decision is issued. The petitioner is a trespasser and he has no right to enter into the property and the sale certificate has already been issued on 12.01.2018. There is no harm in the Bank seeking Assistance of Police to remove the encroacher namely, the petitioner.

4. The observations made supra are only for the disposal of the writ petition and it is open to the parties to make their rival submissions before the DRT and DRAT. We expect the petitioner does not approach this Court for the third time against the same cause.

5. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vji/pri

To

1. State Bank of India
Rep by its Authorised Officer,
Stressed Assets Management Branch,
1112, Raja Plaza, Avinashi Road,
Coimbatore - 641 037.

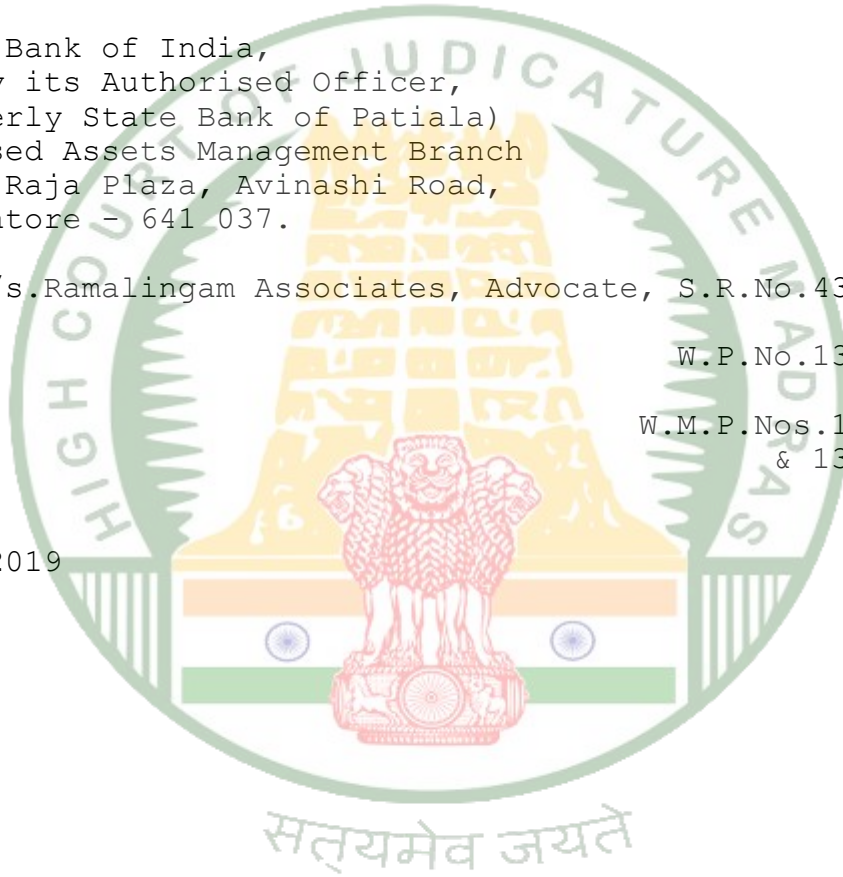
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1112, Raja Plaza, Avinashi Road,
Coimbatore - 641 037.

+1cc to M/s.Ramalingam Associates, Advocate, S.R.No.43388

W.P.No.13842 of 2019
and
W.M.P.Nos.13919, 13921
& 13923 of 2019

SKV(CO)
CS/13/05/2019



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