

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2019

CORAM

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

Cont.P.No.1105 of 2019

Visesh Cargo & Travels Pvt. Ltd.,  
Rep.by its Managing Director,  
M.Gangadharan,  
Having Office at  
No.6, Avvaiyar Street,  
Meenambakkam,  
Chennai - 600 027.

... Petitioner

vs.

M/s.RBL Bank Ltd.,  
Having its Branch Office at,  
Anand Business Centre,  
No.105/56, G.N.Chetty Street,  
T.Nagar, Chennai - 600 017.  
Rep.by its Authorised Representative  
Mr.L.Aravind

... Respondent

Petition filed under Section 11 of Contempt of Courts  
Act to punish the respondent for committing contempt of the  
order passed in A.No.54 of 2018 in C.S.No.585 of 2017 dated  
21.03.2018, on the file of this Court.

For Petitioner .. Mr.R.Raman Laal.

For Respondent .. No Appearance.

**ORDER**

The contempt petition has been filed by the plaintiff in C.S.No.585 of 2017 in which A.No.54 of 2018 had been filed by M/s.RBL Bank Ltd., seeking to implead themselves as a party / defendant to the suit. The suit was filed for recovery of money against three defendants namely, M/s.H.L.Marine Food, D.Manjula and S.Dayanidhi.

2. The application seeking to implead themselves as a party filed by M/s.RBL Bank Ltd., was objected by the plaintiff. This Court had passed an order on 21.03.2018 and the relevant portion of the order is extracted below:-

*"5.It is stated that in the lis between the plaintiff and the defendants, the applicant is not a necessary party and they are also not a proper party. However, if at all a decree is passed, at the time of passing of the decree, since they are having a charge over the property, which is also subject matter on attachment by this Court, they can always be permitted to participate and enforce the mortgage.*

*6. With these observations, this Application is closed. It is again made clear that the applicant's statement that they have an existing first charge over the property at Anna Nagar, is also recognized by this Court."*

3. In the contempt petition, the claim of the petitioner / plaintiff in the suit is that M/s.RBL Bank Ltd., had independently enforced their charge over the property and had also brought up the same for sale.

4. Mr. Raman Laal, learned counsel for the petitioner contented that the fact that M/s.RBL Bank Ltd., had already initiated action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI) had not been mentioned in the affidavit seeking to implead themselves. It was stated that this was a deliberate suppression of material fact. It was also pointed out that when M/s.RBL Bank Ltd., brought the property for sale, there was an obligation to inform the present petitioner / plaintiff which would have enabled the petitioner / plaintiff to

participate in such sale and seek recovery of dues as against the defendants in the suit.

5. The learned counsel also stated that the purport of the order was that M/s.RBL Bank Ltd., when they brought the property for sale, was under an obligation to inform the petitioner / plaintiff.

6. Unfortunately, a reading of the order does not indicate so. The said A.No.54 of 2018 was filed by M/s.RBL Bank Ltd., only to implead themselves. That application was objected by the present petitioner / plaintiff. Recording his objections, this Court had refused to grant permission to M/s.RBL Bank Ltd., to implead themselves and it had also stated that since M/s.RBL Bank Ltd., already had a charge over the property, they can always participate in enforcing the mortgage. I am not able to comprehend as to how bringing of the property for sale independently and in a separate legal proceedings would amount to the contempt of the order of this Court. I am constrained to disagree with the contentions raised and consequently, the contempt petition is dismissed.

7. It is also informed by Mr.Raman Laal that he had also filed independent applications in the suit to implead M/s.RBL Bank Ltd., and as well as the successful bidder of the property. I am sure that the dismissal of this contempt petition would not have any bearing while deciding those two applications which would definitely be decided independently.

smv

SD/-  
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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