

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI

AND

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.30191 of 2019

and

W.M.P.No.30161 of 2019

Mrs.G.Meena

Petitioner

Versus

1. The District Collector,
Chennai Collectorate,
Singaravelar Maligai,
No.62, Rajaji Salai,
Chennai 600 001.

2. The Tahsildar,
Ambattur Taluk, Chennai.

3. State Bank of India,
Guduvanchery Branch,
rep. by its Branch Manager,
Guduvancheri, Chennai.

4. Mr.Suresh Kumar

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 1st and 2nd respondents to take appropriate action on the representation of the Petitioner dated 2.8.2019 and 19.8.2019 and to restore the public utility services and a shop sealed by them which is not belonging to the 4th respondent.

For Petitioner : Mr.K.Livingston

For R1 & R2 : Mrs.A.Srijayanthi, Special Govt. Pleader

For R3 : Ms.S.R.Sumathy

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, J.)

Mrs.G.Meena, wife of P.R.Ganesan, residing at No.195, 2nd Street, Imayam Colony, Anna Nagar West Extension, Chennai 600 101, filed this Petition in this court, aggrieved by the threatened dispossession of the Petitioner from the demised premises in which, she claims to be residing on the first floor.

2. The learned counsel for the Petitioner, Mr.K.Livingston submitted that the property in question was sold by the Petitioner Mrs.G.Meena to the fourth Respondent Mr.Suresh Kumar, son of Mr.Sundaram, but, she continued to be in possession of the premises as lease deed was executed thereafter by the owner of the property Mr.Suresh Kumar, in favour of the present Petitioner Mrs.Meena, daughter of Veerachamy. He further submitted that the Respondent-Bank has taken over the possession of the premises under Section 14 of the SARFAESI Act, viz., the ground floor of the property in question including some common areas and to seek re-possession of such common area, the present Writ Petition has been filed in this court.

3. The learned counsel for the Respondent Bank Ms.S.R.Sumathy prays for some time to file counter.

4. Having heard the learned counsel for the parties, we are of the view that as against the nature of grievance raised in the present Petition, the Petitioner has an effective alternative remedy to approach DRT under Section 17 of the SARFAESI Act. All the questions of facts about the leasehold rights, relationship of the petitioner qua the borrower and owner of the property can very well be raised before the learned DRT which is a fact finding Forum which can pass appropriate orders after allowing the parties to lead the evidence. Straightway approaching this court under Article 226 of the Constitution of India cannot be appreciated in such cases.

5. Therefore, we dispose of this petition with liberty to the Petitioner to approach the DRT in the matter. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The District Collector,
Chennai Collectorate,
Singaravelar Maligai,
No.62, Rajaji Salai,
Chennai 600 001.
2. The Tahsildar,
Ambattur Taluk, Chennai.
3. The Branch Manager,
State Bank of India,
Guduvanchery Branch,
Guduvancheri, Chennai.

+lcc to Ms.S.R.Sumathy, Advocate sr.93427

W.P.No.30191 of 2019

ppa(co)
nr 13/12/2019



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