

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.31863 of 2019
and
W.M.P.No.32108 of 2019

J.L.Fernando

Petitioner

Versus

1. Indian Overseas Bank,
rep. by its Autorised Officer,
Mr.Paulsamy Raj,
Sriram Nagar Branch,
135, T.T.K.Road, Alwarpet,
Chennai 600 018.
2. M/s.Shalom Travels,
rep. by its Proprietor
John I.Rayon
64/C, Fifth Street,
Thiruvallur Nagar,
Alandur, Chennai 600 016.
3. John I Rayon

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records on the file of the Chief Metropolitan Magistrate, Egmore, Chennai by order dated 22.8.2019 in CrI.M.P.No.3942 of 2018 in CrI.M.P.No.3137 of 2018 and quash the same.

For Petitioner : Mr.S.Marimuthu
For R1 : Mr.Benjamin George

ORDER

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

The Petitioner J.L.Fernando, residing at Plot No.160, Union Carbide Colony, 10th Street, Eveready Street, Kodungaiur,

Chennai has filed this Petition aggrieved by the order dated 22.8.2019 passed by the learned Chief Metropolitan Magistrate holding that it has no power to review its own order under Section 14 of the SARFAESI Act and therefore, the earlier order dated 17.7.2018 passed under Section 17 of the SARFAESI Act cannot be withdrawn at the instance of the Petitioner who has claimed before the Chief Metropolitan Magistrate that he was only a guarantor for the loan availed by Respondents 2 and 3 and therefore, no recovery can be made from him.

2. It appears from the impugned order that the Petitioner had earlier approached the DRT in S.A.No.118 of 2015 and the same came to be dismissed by the learned DRT and the Appeal in A.I.R.(SA) No.162 of 2016 also came to be dismissed by the learned DRAT. It is further seen that the Petitioner has also filed W.P.No.20600 of 2018 which was also dismissed by this court. Therefore, the Petitioner also seems to have exhausted all possible remedies and took his defence taken before the Authorities under the Act.

3. Having heard the learned counsel for the parties, we are satisfied that there is no error in the impugned order passed by the learned Chief Metropolitan Magistrate and in the absence of any statutory power conferred under Section 14 of the Act to review its own order, which, in the first instance, was passed on 17.7.2018, the learned Metropolitan Magistrate cannot be faulted with in rejecting the Application by the impugned order. Therefore, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. Copy of this order may be sent to the Respondents forthwith.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

ssk.

To:

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.
2. The Authorised Officer, Indian Overseas Bank,
Mr.Paulsamy Raj,
Sriram Nagar Branch,
135, T.T.K.Road, Alwarpet,
Chennai 600 018.

3.The Proprietor
M/s.Shalom Travels,
John I.Rayon
64/C, Fifth Street,
Thiruvallur Nagar,
Alandur, Chennai 600 016.

+1 CC to Mr.F.B. Benjamin George, Advocate sr 95178
+1 CC to Mr.S.Marimuthu, Advocate sr 94279

W.P.No.31863 of 2019

VD(CO)
SP(19/12/2019)



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