

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.11.2019

CORAM

THE HONOURABLE ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.30964 of 2019

G.Viswanathan

Petitioner

Versus

1. M/s.Indian Bank,
Guindy Branch,
rep. by SAM V Branch,
Chennai 600 008.
2. Vijayakumar
3. M/s.Amman and Co.,
rep. by its Managing Partner,
Shanmugasundaram,
No.2/2, Reddy Kuppan Road,
West Mambalam, Chennai 600 033.
4. Shanmugasundaram
5. The Recovery Officer,
Debt Recovery Tribunal-II,
Dewa Tower, Anna Salai,
Chennai 600 002.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the entire records pertaining to the order of the 5th respondent in M.A.Sr.No.484/2019 dated 8.3.2019 and quash the same and consequently forbearing the 1st and 5th Respondents and their subordinates from bringing the Petitioner's property situated at Plot No.30, 1st Main Road, Ram Nagar South Extension, No.149, Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District, comprised in S.No.33, Patta No.31159, as Per Patta S.No.33/10, measuring an extent of 3600 sqft. to public auction in respect of the loan sanctioned by the 1st respondent to the 2nd respondent.

For petitioner : Mr.A.Suresh

ORDER

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

The Petitioner is aggrieved by the order dated 8.3.2019 passed by DRT II, Chennai in M.A.Sr.No.484/2019 in DRC No.219 of 2018 in O.A.No.148 of 2016 (G.Viswanathan v. Indian Bank and others).

2. The learned counsel for the Petitioner submits that the impleading Application was filed by the Petitioner having interest in the property in question and therefore, he would be a necessary and proper party before the DRT and the rejection of the Application was not proper.

3. Having heard the learned counsel for the Petitioner, we are of the opinion that since the Petitioner has an alternative effective remedy before the DRAT. Therefore, the present Petition is held to be not maintainable.

4. We clarify that in view of the decision in Mardia Chemicals Limited v. Union of India ((2004) 4 SCC 311) and the decision of a Division Bench of this Court in Sree Jeya Soundharam Textile Mills Pvt. Ltd v. Canara Bank and others (C.R.P.(NPD) No.1492 of 2017, etc. decided on 11.4.2019) which has been followed by this Bench in the case of M/s.Ashok Wood Works and another v. Indian Overseas Bank (W.P.No.22981 of 2019 dated 30.9.2019), the condition of pre-deposit for such third party cannot be insisted. Therefore, if the Petitioner files Appeal before the DRAT within two weeks from today, the learned DRAT is required to decide the same on merits and in accordance with law.

5. The Writ Petition is disposed of accordingly. Copy of this order may be sent to the Respondents forthwith.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssk.

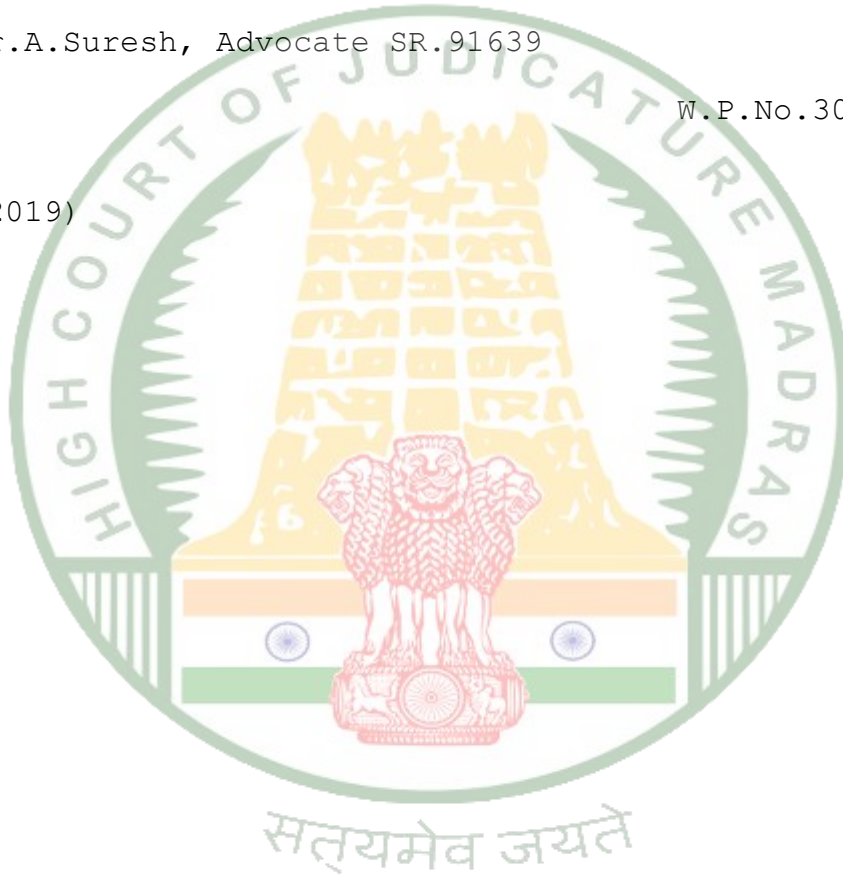
To:

1. M/s.Indian Bank,
Guindy Branch,
rep. by SAM V Branch,
Chennai 600 008.
2. The Recovery Officer,
Debt Recovery Tribunal-II,
Dewa Tower, Anna Salai,
Chennai 600 002.

+lcc to Mr.A.Suresh, Advocate SR.91639

W.P.No.30964 of 2019

VBA(CO)
CB(08/11/2019)



WEB COPY