

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM :

The Hon'ble Dr.Justice VINEET KOTHARI, ACTING CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE C.SARAVANAN

W.P. No.30858 of 2019
and W.M.P.No.30941 of 2019

S.M.Kamalahasan
Proprietor, M/s.Kamal & Co. ... Petitioner

-vs-

- 1.The District Magistrate cum District
Collector, Coimbatore District
Collectorate, Coimbatore.
- 2.The Registrar,
Debt Recovery Tribunal,
Coimbatore.
- 3.The Authorised Officer,
Corporation Bank, Coimbatore
Main Branch, No.816, Oppanakara St.,
Coimbatore 641 011.
- 4.Hariom Gola
- 5.Manorama Gola
- 6.Rahul Gola
- 7.Deepak Gola
- 8.Arumugam .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st respondent not to take possession of the petitioner's properties situated at T.S.No.5/359, Big Bazaar Street, Coimbatore South Taluk, Coimbatore District, pertaining to the proceedings under Na.Ka.7748/2016/U3, on their file, until the 2nd respondent dispose of the petitioner's application in S.A.No.327 of 2019 pending on its file.

For Petitioner : Mr.A.Suresh Sakthi Murugan

For Respondents : Mr.V.Jayaprakash Narayanan
Govt. Pleader for R-1

O R D E R

(Order of the Court was made by The Hon'ble Acting Chief Justice)

The only prayer made in the present writ petition by the petitioner / Borrower is let the District Collector, Coimbatore, be directed not to pass the final order under Section 14 of the SARFAESI Act, on 01.11.2019, as fixed vide communication dated 21.10.2019, because the learned counsel for the petitioner submitted that the Debts Recovery Tribunal, Coimbatore, does not hold regular sittings, where the appeal of the petitioner challenged under Section 17 of the SARFAESI Act against the sale effected by the respondent Bank is pending consideration.

2.The learned counsel for the petitioner submitted that the District Collector, Coimbatore, is likely to pass the final order on 01.11.2019, that is, tomorrow itself, and the possession of the property may be forcibly taken over, where he is running his business and some other tenants also exist. The next date of hearing of the appeal before the Debts Recovery Tribunal is said to be on 09.12.2019.

3.We have heard the learned Government Pleader appearing for the first respondent / District Collector, Coimbatore, in this writ petition.

4.In the facts and circumstances of the case, we dispose of the writ petition, by requesting the learned District Collector, Coimbatore, to await the fate of the hearing of the appeal on 09.12.2019 before the Debts Recovery Tribunal, Coimbatore and not to pass final order on 01.11.2019, as indicated above. The petitioner is free to make suitable prayer before the Debts Recovery Tribunal, Coimbatore, in this regard. The Debts Recovery Tribunal, Coimbatore, may consider the case of the petitioner for grant of interim relief in accordance with law on 09.12.2019. No costs. Consequently, W.M.P.No.30941 of 2019 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Magistrate cum District
Collector, Coimbatore District
Collectorate, Coimbatore.

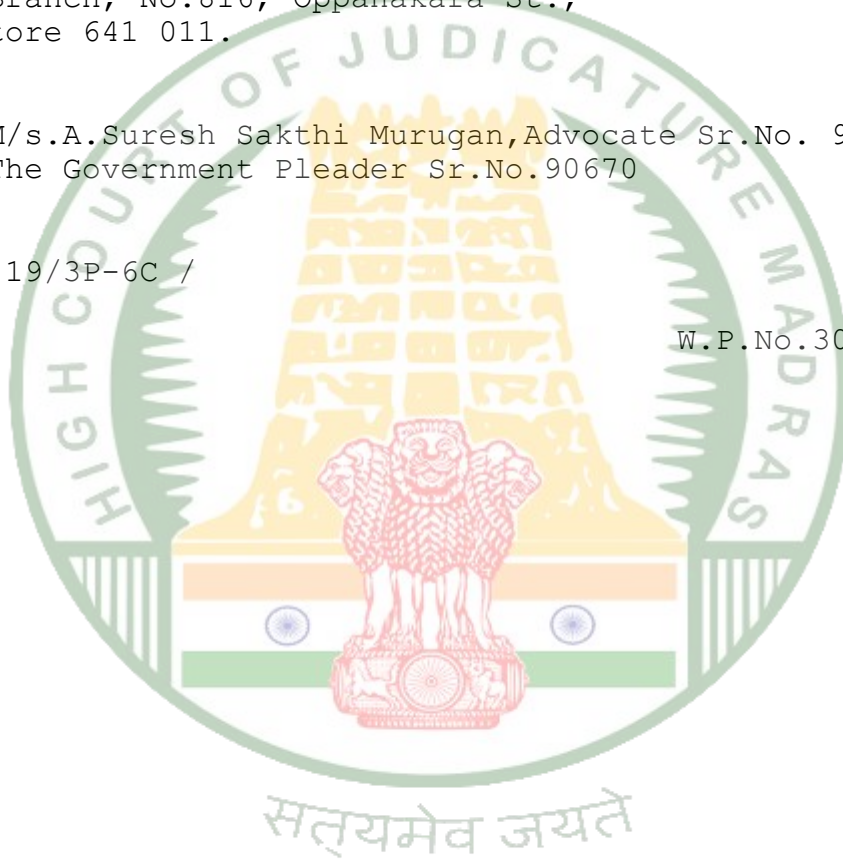
2.The Registrar,
Debt Recovery Tribunal,
Coimbatore.

3.The Authorised Officer,
Corporation Bank, Coimbatore
Main Branch, No.816, Oppanakara St.,
Coimbatore 641 011.

+1 cc to M/s.A.Suresh Sakthi Murugan,Advocate Sr.No. 90288
+1 cc to The Government Pleader Sr.No.90670

AKM/22.11.19/3P-6C /

W.P.No.30858 of 2019



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