

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.34315 & 34318 of 2019
and
W.M.P.Nos.34979 & 34982 of 2019

B.Kamalakannan, S/o.Mr.Babu,
Residing at No.72/2, Kajura Garden,
East Coast Road, Neelangarai,
Chennai 41.
Adhaar No.850431464159
.... Petitioner
in W.P.No.34315 of 2019

K.Munirathinam,
S/o.Mr.Kuppusamy,
Residing at No.72/2, Kajura Garden,
East Coast Road, Neelangarai,
Chennai 41.
Adhaar No.975715934380
.... Petitioner
in W.P.No.34318 of 2019

Vs

1.The Authorized Officer,
M/s.United Bank of India
Virugampakkam Branch,
No.83, Arcot Road,
Virugampakkam, Chennai 92.
IFSC CODE: UTBI0VKM854

2.M/s.R.A.Samy Trading Private Limited,
(Shanmuga Store)
No.21, Ranganatha Street,
T.Nagar, Chennai 600 017.

3.R.Arumugasamy,
Director of M/s.RA Samy Trading Private Limited,
No.72/2, Kazura Gardens, East Coast Road,
Neelangarai, Chennai 600 041.

... Respondents
(in both petitions)

PRAYER in W.P.No.34315 of 2019: Writ Petition filed under
Article 226 of the Constitution of India praying to issue a Writ

of Certiorarified Mandamus, calling for the records pertaining to the order dated 02.12.2019 in SA SR No.15040 of 2019 on the file of Debt Recovery Tribunal-II, Chennai and quash the same as illegal arbitrary, unlawful and consequentially direct the Debt Recovery Tribunal - II, Chennai to decide the issue of maintainability.

PRAYER in W.P.No.34318 of 2019: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 02.12.2019 in SA SR No.15034 of 2019 on the file of Debt Recovery Tribunal-II, Chennai and quash the same as illegal arbitrary, unlawful and consequentially direct the Debt Recovery Tribunal - II, Chennai to decide the issue of maintainability.

For Petitioner :Mr.M.Devaraj

For Respondents :Mr.P.S.Ganesh (for R1)

Mr.K.J.Parthasarathy
for Auction purchaser

C O M M O N O R D E R

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The petitioners/tenants have come before this Court challenging the order passed by the Debt Recovery Tribunal by which the application filed by the petitioners challenging the communication of the Tahsildar by which the Tahsildar had asked the petitioners to hand over the possession has been dismissed in SR stage itself, even before numbering.

2.Heard the parties.

3.The learned counsel appearing on behalf of the 3rd respondent would submit that the 2nd respondent is the owner of the property and he has availed loan from the 1st respondent and has failed to discharge the loan leading to institution of proceedings under SARFAESI Act which has been confirmed by the Hon'ble Supreme Court. The property has also been brought for auction and some third party has purchased the property. In the meanwhile, claiming right over the property, the tenants had approached the DRT, challenging the notice issued by the Tahsildar.

4.As rightly pointed out by DRT, the petitioners misled the Tribunal, as if they were in possession and obtained interim order. Moreover, the matter has already attained finality and the property was sold to some third party by auction under SARFAESI proceedings by the 1st respondent.

5. Moreover, when the matter is called today, the learned counsel appearing on behalf of the bank has submitted that yesterday (09.12.2019) itself possession was taken and he has produced the photograph taking possession of the property. When the DRT proceedings have attained finality against the borrower and the DRT negatived the claim of the petitioners/tenants and possession has been taken over yesterday (09.12.2019) itself, nothing survives in the Writ Petitions.

6. Accordingly, the Writ Petitions are dismissed as nothing survives. No costs. Consequently, connected Miscellaneous Petitions are also closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

sai
To

The Debt Recovery Tribunal-II,
Chennai

+2 CCS to Mr.M.Devaraj, Advocate sr 102906

+2 Ccs to Mr.P.S.Ganesh, Advocate sr 102780.

W.P.Nos.34315 & 34318 of 2019

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

सत्यमेव जयते

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