

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.No.34296 of 2019
and
W.M.P.No.34934 of 2019

S.Jeyamurugan,
S/o.Mr.Subbiah Nadar,
No.40, Annai Gandhi Street,
MGR Nagar, Chennai 78.
Adhaar No.599699945602

.... Petitioner

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

PRAYER : 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.15037 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.Joseph Dorairaj
For Respondents:Mr.P.S.Ganesh (for R1)
Mr.K.J.Parthasarathy
for Auction purchaser

O R D E R

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

The petitioner/tenant has come before this Court challenging the order passed by the Debt Recovery Tribunal by which the application filed by the petitioner challenging the communication of the Tahsildar by which the Tahsildar had asked the petitioner 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 tenant had approached the DRT, challenging the notice issued by the Tahsildar.

4.As rightly pointed out by DRT, the petitioner misled the Tribunal, as if he was 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 negated the claim of the petitioner/tenant and possession has been taken over yesterday (09.12.2019) itself, nothing survives in the Writ Petition.

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

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

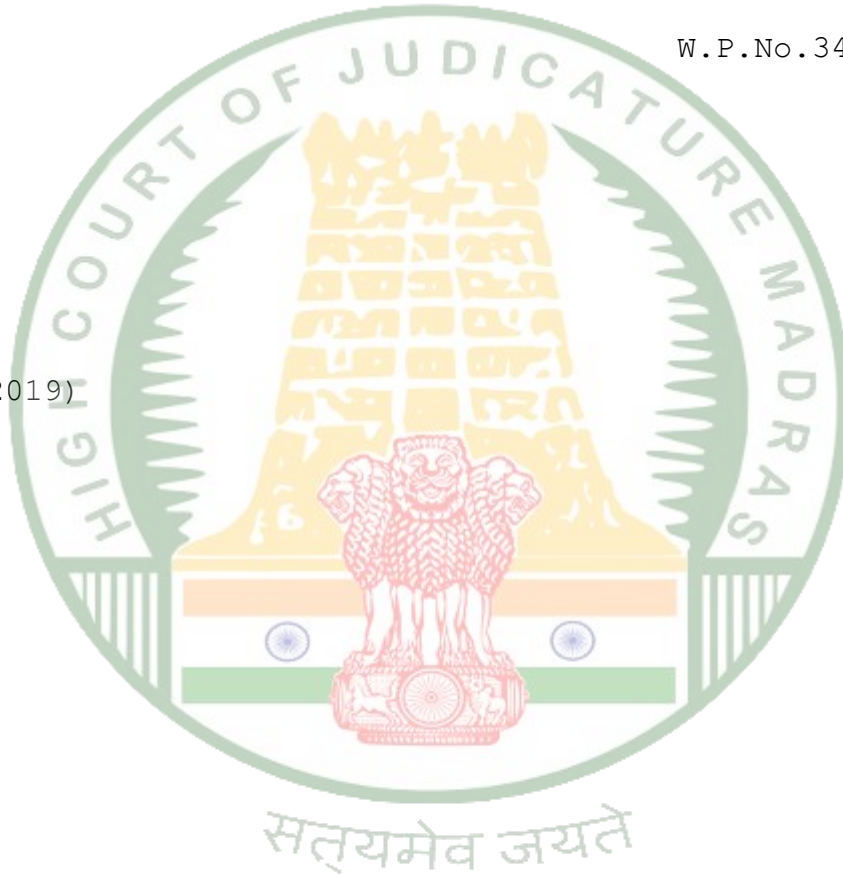
To

The Debt Recovery Tribunal-II,
Chennai

+1 CC to Mr.A. Joseph Dorairaj, Advocate sr 102905.
+1 CC to Mr.R.S. Ganesh, Advocate sr 102778
+1 CC to Mr.K.J.Parthasarathy, Advocate sr 103179

W.P.No.34296 of 2019

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



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