

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2019

CORAM

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.31830 of 2018

R.Karthikraj

.. Petitioner

Vs

- 1 The District Collector
Namakkal District
Namakkal.
- 2 The Revenue Divisional Officer
Namakkal.
- 3 Indian Bank
Rep. by its Chief Manager
and Authorized Officer
Namakkal Branch
No.31 Rangar Snnadhi Street
Namakkal - 637 001.
- 4 N.Madhavan

.. Respondents

PRAYER:

Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus directing respondents 1 to 3 to implement the order of the 1st respondent dated 27.4.2011 vide Roc. 49185/2010/M-4 in letter and spirit to evict the 4th respondent from the property comprised in SF.No.47/5A, Plot No.23, Old Door No.4/A/23, New Door No.5/14, NGGO's Colony, Chinnamudalaipatti Namakkal District.

For Petitioner

: Mr.T.Mohan
for Mr.S.Makesh

For Respondents

: Mr.K.Suresh
Government Advocate
for respondents 1 and 2

Mr.Jayesh B.Dolia
for M/s.Aiyar and Dolia
for 3rd respondent

Mrs.Hemalatha
for Mr.C.Prakasam
for 4th respondent

ORDER

(Order of the Court was made by M.DURAISWAMY,J.)

The above writ petition has been filed by the petitioner to issue writ of mandamus directing respondents 1 to 3 to implement the order of the first respondent dated 27.4.2011 vide Roc. 49185/2010/M-4 in letter and spirit to evict the fourth respondent from the property comprised in SF.No.47/5A, Plot No.23, Old Door No.4/A/23, New Door No.5/14, NGGO's Colony, Chinnamudalaipatti Namakkal District.

2. It is the case of the petitioner that in spite of the order passed by the first respondent in an application filed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as early as on 27.4.2011, the possession has not yet been taken from the fourth respondent. It is brought to the notice of this Court that the fourth respondent filed an appeal in S.A.SR.No.558 of 2010 before the Debts Recovery Tribunal, Madurai along with certain applications for condoning the delay, etc. Thereafter, applications in I.A.Nos.795 to 798 of 2012 were filed by the fourth respondent seeking for restoration of the appeal. According to the learned counsel appearing for the fourth respondent, the applications have not yet been disposed of by the Debts Recovery Tribunal.

3. Admittedly, the fourth respondent has not obtained an order of interim stay of the order dated 27.4.2011 passed under Section 14 of the SARFAESI Act. In such circumstances, the order passed by the first respondent cannot remain as a paper order and it is meant for implementation.

4. In such view of the matter, we direct the first respondent to proceed further pursuant to the order dated 27.4.2011 for taking possession of the property from the fourth respondent as expeditiously as possible.

With these observations, the writ petition is disposed of.
No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sasi

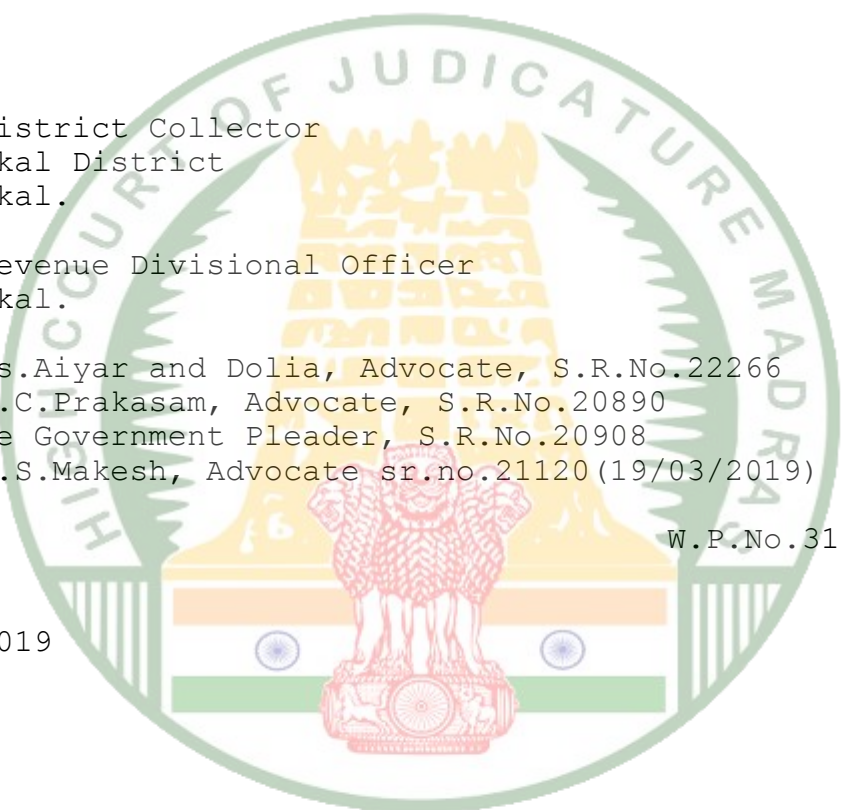
To:

- 1 The District Collector
Namakkal District
Namakkal.
- 2 The Revenue Divisional Officer
Namakkal.

+1cc to M/s.Aiyar and Dolia, Advocate, S.R.No.22266
+1cc to Mr.C.Prakasam, Advocate, S.R.No.20890
+1cc to the Government Pleader, S.R.No.20908
+1cc to Mr.S.Makesh, Advocate sr.no.21120 (19/03/2019)

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KK (CO)
CS/15/03/2019



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