

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.33033 of 2018 and

W.M.P.No.38306 of 2018

M/s.Radaan Textiles,
rep by its Partner K.Manickam
No.45, Vara Thottam,
15, Velampalayam Main Road,
Opp. Airtel Tower,
Tirupur - 641 652,
Tirupur District.

... Petitioner

Vs.

1. The District Magistrate and
District Collector,
Tirupur District, Tirupur.

2. The Sub Collector,
Tirupur District, Tirupur.

3. The Tahsildar,
Tirupur North Taluk,
Tirupur, Tirupur District.

4. The Authorized Officer,
Asset Recovery Management Branch,
Punjab National Bank,
No.448-A, Dr.Nanjappa Road,
Coimbatore - 641 018.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records from the 1st respondent by his proceedings dated 25.09.2018 made in Ref.No.2132/2018/C3 and quash the same and direct the 3rd respondent not to take physical possession of the property viz., 3080 sq.ft. of land and building in Survey No.331/4, Door No.27A-2, 27A-3, Gandhi Road, Anupparpalayam Pudur, 15, Velampalayam Village, Tiruppur within

the Tiruppur Registration District, Tiruppur Joint-II, Sub Registration District in pursuance of the order passed by the 1st respondent dated 25.09.2018.

For Petitioner : Mr.K.A.Ramakrishnan

For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader (i/c) (R1 to R3)

Mr.M.L.Ganesh (R4)

O R D E R

(Order of the Court made by M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus calling for the records from the 1st respondent by his proceedings dated 25.09.2018 and to quash the same and to direct the 3rd respondent not to take physical possession of the property in pursuance of the order passed by the 1st respondent dated 25.09.2018.

2.By order dated 25.09.2018, the 1st respondent authorized the Sub Collector and directed him to take possession of the secured asset. Challenging this order, the petitioner has filed the above Writ Petition.

3.The learned counsel appearing for the 4th respondent - Bank submitted that the Writ Petition is not maintainable for the reason that the petitioner has approached this Court directly under Article 226 of the Constitution without exhausting the appeal remedy under Section 17 (4 - A) of the SARFAESI Act.

4.In view of Section 17(4 - A) of the Act, the learned counsel appearing for the petitioner submitted that the petitioner's possession may be protected till 09.01.2019 enabling the petitioner to move the Debts Recovery Tribunal under Section 17(4 - A) of the Act.

5.The learned counsel for the 4th respondent has no objection for maintaining status - quo till 09.01.2019 and further submitted that in the event of the petitioner not obtaining an order of stay before the Debts Recovery Tribunal, the 4th respondent would proceed further in the matter.

6.In view of the submissions made by the learned counsel on either side, we are not inclined to entertain the Writ Petition since the petitioner has got remedy by way of an appeal before

the Debts Recovery Tribunal under Section 17 (4 - A) of the Act. The respondents are directed to maintain status - quo till 09.01.2019. It is open to the petitioner to move the Debts Recovery Tribunal challenging the impugned order dated 25.09.2018 passed by the 1st respondent in accordance with law. It is also made clear that in the event of the petitioner not obtaining an order of stay before the Debts Recovery Tribunal, it is open to the respondents to proceed further in the matter in accordance with law.

7. With these observations, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

va

To

1. The District Magistrate and District Collector,
Tirupur District, Tirupur.
2. The Sub Collector,
Tirupur District, Tirupur.
3. The Tahsildar,
Tirupur North Taluk,
Tirupur, Tirupur District.
4. The Authorized Officer,
Asset Recovery Management Branch,
Punjab National Bank,
No.448-A, Dr.Nanjappa Road,
Coimbatore - 641 018.

+1cc to Mr.K.A.Ramakrishnan, Advocate, S.R.No.65
+1cc to Mr.M.L.Ganesh, Advocate, S.R.No.133

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W.M.P.No.38306 of 2018

RSY(Co)
CS/03/01/2019