

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.2978, 2984, 2990 & 2993 of 2020

and

W.M.P.Nos.3471, 3472, 3474, 3476, 3477, 3479, 3482, 3484, 3485,
3487, 3489 & 3490 of 2020

Ramesh Chand (M/47),
S/o.Pukhraj,
Old No.167, New No.156,
Govindappa Naicken Street,
Chennai 600 001.

... Petitioner in W.P.No.2978 of 2020

Ashok Purohit (M/29),
S/o.Arjun Singh Purohit,
Old No.167, New No.156,
Govindappa Naicken Street,
Chennai 600 001.

... Petitioner in W.P.No.2984 of 2020

Mangilal Sarupaji (M/50),
S/o.Sarupaji,
Old No.167, New No.156,
Govindappa Naicken Street,
Chennai 600 001.

... Petitioner in W.P.No.2990 of 2020

Narendra Singh (M/57),
S/o.Sher Bahadur Singh,
Old No.167, New No.156,
Govindappa Naicken Street,
Chennai 600 001.

... Petitioner in W.P.No.2993 of 2020

Vs

1.Kotak Mahindra Bank,
Rep. by its Authorised Officer,
Srinivas Ponduri,
No.3, Ground Floor, Rathinapuri Layout,
Jawaharlal Nehru Road, 100 feet road,
Koyambedu, Chennai 600 107.

2.The Chief Metropolitan Magistrate,
Egmore, Chennai 600 008.

3.Esjaypee Impex Private Limited,
Represented by its Managing Director,
Mahendra Kumar,
No.186, Govindappa Naicken Street,
Chennai 600 001.

4.Pattubhai Phukaraj,
No.47/A, Rainbow Rakhi Apartments,
Barnaby Road, Kilpauk, Chennai 600 010.

5.Mahendra Parmar,
No.23, Rajarathinam Street,
Kilpauk, Chennai 600 010.

6.Manish Parmar,
No.47/A, Rainbow Rakhi Apartments,
Barnaby Road, Kilpauk, Chennai 600 010.

7.Madhubala Parmar,
No.23, Rajarathinam Street,
Kilpauk, Chennai 600 010.

8.Kalasurendara Jam,
No.1825, Paseo Del Sol,
Palos Verdes Estate, CA 90274, USA.

9.Indhu Mahendrasinghi,
No.203, Apsara Building 'B' Wing, Sector 17,
Vashi, Navi, Mumbai.

10.The State,
Rep. by its Inspector of Police,
C-5, Kothavalchavadi Police Station,
Thathamuthiyappan Street,
Chennai 600 108.

... Respondents
(in all the petitions)

PRAYERS : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Crl.M.P.No.3646 of 2019, dated 12.11.2019 and quash the same and to take penal action against the first respondent.

For Petitioner :Mr.K.Rajendra Prasad
(in all the petitions)

For Respondent :Mr.J.Senthilkumar (for R1)
(in all the petitions)

COMMON ORDER

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

The petitioner is a tenant in the premises which is shown as security property to the bank for the loan availed by the 3rd respondent. Since the loan account has become a Non Performing Asset, the security property was auctioned and the third party has purchased the property. Since some responsibilities were there, petition under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest

Act 2002, seeking an order to enable the Bank to take management and possession of the secured asset was taken out by the 1st respondent/Bank. In the said petition, the Criminal Court by virtue of order dated 12.11.2019 granted relief specifically. Even as per the averment made by the petitioner, the possession has already been taken. The said order of the Criminal Court is sought to be challenged before this Court.

2.Heard the parties.

3.Though the petitioner claimed to be a tenant, there is no valid document to show that he is a tenant. Even though lease deed has been filed before this Court to show that he is a tenant of the building, that too is an unregistered document. It is evident from the records that the documents have been fabricated for the purpose of the case, only to prevent the bank from taking possession. In any event, the possession has already been taken.

4.The petitioner's grievance is that his goods and immovable properties are inside the alleged tenanted portion and he has 10 days time to vacate the premises and to take possession of those things. There is no

question of vacating the premises, as already the bank has taken possession as per the order passed by the criminal Court. While taking possession, inventory would have been taken listing out what are all the materials and goods which are found in the premises. If the petitioner is aggrieved he can give representation along with list of immovables and goods to the bank to get the immovable properties and goods and the bank shall consider the same.

5. Accordingly, the Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

(NKKJ) (PVJ)
07.02.2020

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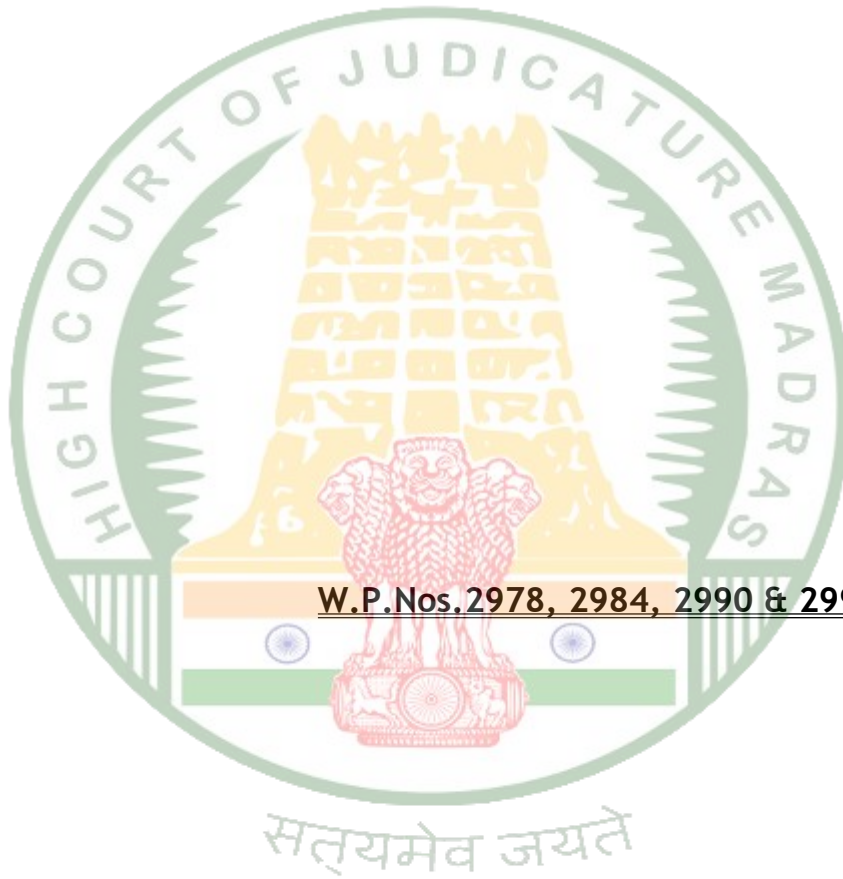
1. The Chief Metropolitan Magistrate,
Egmore, Chennai 600 008.

2. The Inspector of Police,
C-5, Kothavalchavadi Police Station,
Thathamuthiyappan Street,
Chennai 600 108.

W.P.Nos.2978, 2984, 2990 & 2993 of 2020

N.KIRUBAKARAN, J.
and
P.VELMURUGAN, J.

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Dated : 07.02.2020

W.P.Nos.2978, 2984, 2990 & 2993 of 2020

and

W.M.P.Nos.3479, 3471, 3487, 3489, 3472, 3474, 3476, 3477, 3484, 3482,
3485 & 3490 of 2020

N.KIRUBAKARAN, J.

and

P.VELMURUGAN, J.

(Order of the Court was made by N.Kirubakaran, J)

This matter has been brought before this Court by way of being mentioned by the learned counsel appearing on behalf of the petitioner stating that another Division Bench of this Court in W.P.No.1764 of 2020 dated 12.02.2020 has permitted the petitioner therein to remove the articles stored in the premises in question. Following the same, he seeks five days time to remove the articles.

2.Heard the parties and perused the order dated 12.02.2020 passed in W.P.No.1764 of 2020.

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3.From the above referred order, it is clear that another Division Bench of this Court in W.P.No.1764 of 2020 dated 12.02.2020 has granted five days time to the petitioner therein to remove the articles stored in the premises in question.

Therefore, five days time from tomorrow (21.02.2020) is granted to the petitioner herein to remove the articles stored in the premises in question. However, it is made clear that under the garb of removing the articles, the petitioner shall not create any nuisance or other problems and it is also open to the 1st respondent/Bank to depute an official to oversee the same and they are also at liberty to take photographs and videograph.

4.Call the matter on 26.02.2020.

(N.K.K.,J.) (P.V.,J.)
20.02.2020

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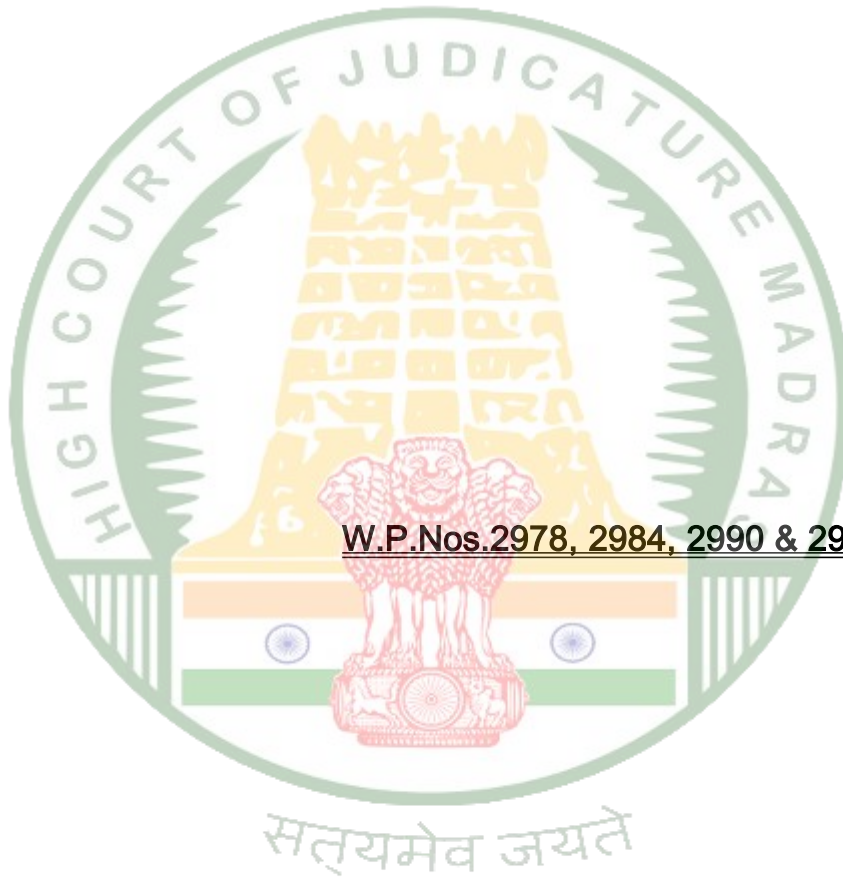
Note: The Registry is directed to issue order copy on 20.02.2020.

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