

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH  
and  
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.12311 of 2020 &  
WMP.No.15122 of 2020

Kayalvizhi

.. Petitioner

Vs

- 1.The Regional Manager,  
Punjab National Bank, Regional Office,  
PNB Towers, 46-49, 5<sup>th</sup> floor,  
Royapetta High Road, Mylapore,  
Chennai, Tamilnadu - 600 014.
- 2.The Authorised Officer,  
Oriental Bank of Commerce,  
(merged with Punjab National Bank)  
Recovery & Law Cluster - Coimbatore,  
1057, Jaya Enclave, Avinashi Road,  
Coimbatore - 641 018.
- 3.The Branch Manager,  
Oriental Bank of Commerce,  
(merged with Punjab National Bank)  
May Flower Arcade,  
No.434, Oppanakara Street, Coimbatore,  
Tamilnadu - 641 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of mandamus directing the respondents to consider the petitioner's representation dated 01.08.2020 and furnish all relevant particulars of the loan account 056340110100305 besides permitting the petitioner and her advocate to peruse the records relating the said loan account and take photo copies of the same within a stipulated time and till such time forbear the respondent from dispossess the petitioner from her residential house at S.F.No.328/2A, bearing Door No.15/38B, 15/37C,

Page numbers

Bharathithasan Street, Srinivasapuram, Avinasi without due process of law.

For Petitioner .. Mr.P.R.Thiruneelakandan

For Respondents .. Mr.M.L.Ganesh

ORDER

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

The petitioner, who is the wife of the borrower, has come forward to file this writ petition seeking direction to the respondents to consider her representation dated 01.08.2020, by which, certain particulars were sought for. Since those particulars have not been furnished to the petitioner, the present writ petition has been filed.

2.The learned counsel appearing for the petitioner submitted that proceedings were initiated and concluded by the respondent behind the back of the petitioner and her children and substantial amount has been paid. Though two more properties were sold, now an attempt is being made to effect the sale of the residential property. Therefore, the particulars sought for will have to be given to the petitioner so as to enable her to proceed in accordance with law.

3.The learned counsel appearing for the respondent-Bank submitted that writ petition is misconceived and based upon wrong facts. The petitioner has suppressed the material facts. An application has been filed before the Tribunal and a decree has been passed against the petitioner and her two children for a sum of Rs.1,09,44,073/-. This was followed by recovery certificate. During the proceedings initiated under Section 14(1) of the SARFAESI Act, the petitioner sought for only time. The auction purchaser complied with the terms and conditions and accordingly, sale certificate has been issued on 27.03.2020. Thus, a third party right has also been accrued. Therefore, the writ petition deserves to be dismissed, particularly, when the representation of the petitioner dated 01.08.2020 has been suitably replied on 24.08.2020 and law does not require the presence of a Lawyer.

4.Considering the submissions made, we are of the view that the prayer sought for by the petitioner cannot be granted as the representation sent by the petitioner has already been considered by the respondent by way of a reply dated 24.08.2020. The facts as narrated are not disputed, particularly, the recovery certificate issued against the

Page numbers

petitioner. However, no order has been passed as of now under Section 14(1) and (2) of the Act. In such view of the matter, as and when such an order is passed, the petitioner is at liberty to challenge it before the jurisdictional Tribunal.

5.The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-III)

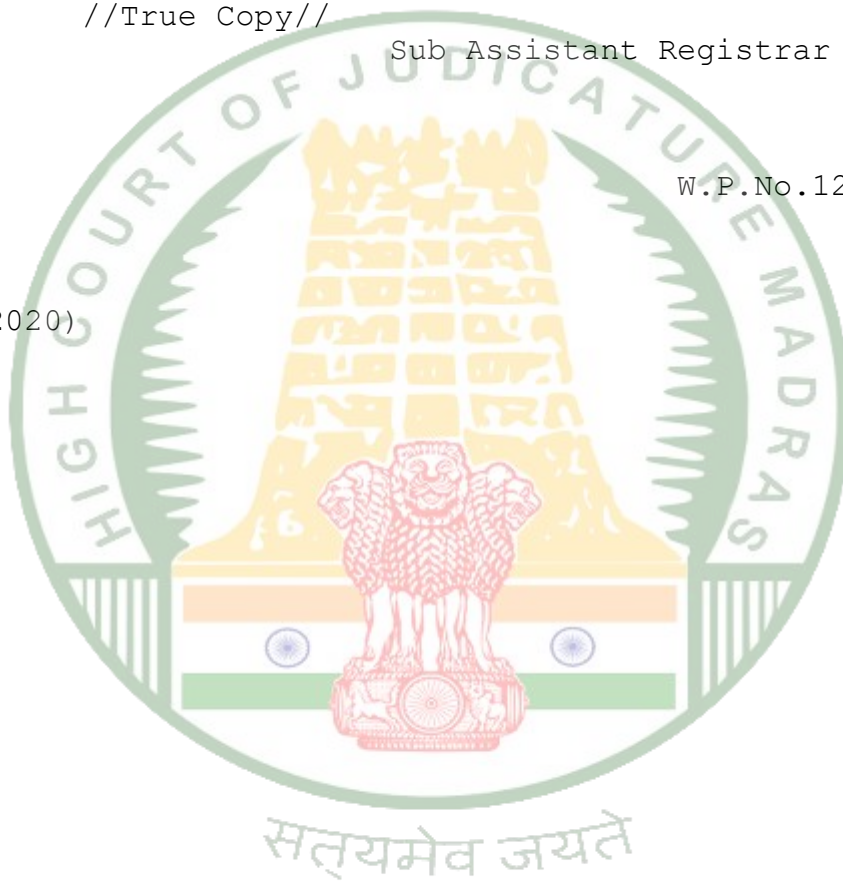
//True Copy//

Sub Assistant Registrar

raa/kmk

W.P.No.12311 of 2020

MR(CO)  
CB(29/10/2020)



WEB COPY

Page numbers