

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.14657/2020 & WMP.No.18214/2020

Rajan Thulashiraman

..Petitioner

Versus

1. Hinduja Leyland Finance Limited
rep.by its Authorised Officer
No.27/A, Developed Industrial Estate
Guindy, Chennai-32.

2. Mr.V.G.Ravichandran

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent or subordinates or agents without enforcing of SARFAESI Act proceedings not take any coercive steps against the petitioner's lease property in SF.No.450/2 and 133/2B situated at R.Puliyampatti Village, Namakkal District.

For Petitioner : Mr.K.Rajendra Prasad
For Respondent : Mr.V.Balasubramani
Standing counsel for R1

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

- (1) By consent, the writ petition is taken up for final disposal and is disposed of by this order.
- (2) The petitioner claims to be an agricultural farmer and a lessee of the alleged agricultural lands in S.No.450/2 and 133/2B of R.Puliyampatti Village, Namakkal District from the 2nd respondent through an unregistered Lease Deed dated 04.10.2010, which came to be extended subsequently by means of another Deed dated 04.09.2013.
- (3) The learned counsel for the petitioner would submit that it appears that the 2nd respondent has availed financial assistance and in lieu of the default committed, action has been initiated by the 1st respondent under the provisions of the SARFAESI Act and apprehending that without resorting to due

process of law, the agricultural lands in possession of the petitioner, as a lessee, are attempted to be taken, came forward to file the present writ petition.

- (4) The learned Standing counsel appearing on behalf of the 1st respondent would submit that due process of law has been followed and the secured assets had been sold in favour of the third party on 19.10.2020 and symbolic possession of the same has also been handed over to the auction purchaser. It is the further submission of the learned standing counsel that in the light of the admitted fact that the so-called Lease Deed dated 04.10.2010 and the extension of Lease on 04.09.2013, are unregistered and that apart, the said documents came into being after the creation of the security documents and the writ petition is, per se, not maintainable and prays for dismissal of this writ petition.
- (5) This Court has carefully considered the rival submission and also perused the materials placed before it.
- (6) Admittedly, the petitioner claims to be a lessee under the 2nd respondent in respect of the agricultural lands through an unregistered Lease Deed dated 04.10.2010 which according to the petitioner, came to be extended on 04.09.2013 and admittedly, both the documents are unregistered documents. In the considered opinion of the Court, whether the lands in question still retain the character of agricultural lands and whether the so-called Lease Deed and extension of lease, came into being prior or after the creation of security documents in favour of the 1st respondent, are devolve upon adjudication of disputed questions of fact and as such, the writ petition is not maintainable.
- (7) In the result, the writ petition is dismissed. However, if the petitioner is so advised and if it is available to him under law, he is at liberty to work out his further remedies in accordance with law before the competent Forum. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Authorised Officer
Hinduja Leyland Finance Limited
No.27/A, Developed Industrial Estate
Guindy, Chennai-32.

WP.No.14657/2020

SS (CO)
RV (30/11/2020)