

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

WP.No.16643/2020 & WMP.Nos.20643 & 20644/2020

C.Kannan ... Petitioner

VS

1.The District Magistrate ... Respondents  
& District Collector,  
Master Plan Complex, NH 205, Chennai-  
Tirutani Highway, Tiruvallur 602 00.

2.The Authorised Officer  
UCO Bank  
No.212, Mount Road Branch  
Chennai 600 006.

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent made in RC.No.8139/2018/M2 dated 19.11.2019 and quash the same as illegal, arbitrary and non est in law and consequently direct the 1st respondent to pass an order assisting the 2nd respondent to take physical possession of the property described in the Sale Certificate dated 18.04.2018 issued by the 2nd respondent in favour of the petitioner registered as Doc.No.4932 of 2018 in the office of the Sub Registrar, Ambattur and deliver the property to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.B.Vijay

For R1 : Mr.V.Jayaprakash Narayan  
Government Pleader

For R2 : Mr.A.V.Radhakrishnan

ORDER

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

(1) By consent, the writ petition is taken up for final  
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disposal and is disposed of by this order.

(2) Mr. V. Jayaprakash Narayan, learned Government Pleader accepts notice on behalf of the 1st respondent and Mr. A. V. Radhakrishnan, learned Standing counsel accepts notice on behalf of the 2nd respondent.

(3) The petitioner is the auction purchaser in respect of the secured assets comprised in Door NO.61, Plot No.61, Pachaianman Street, Devi Nagar, in S.No.722/1A [as per Patta in New S.No.722/1A1A1B], admeasuring to an extent of 2400 sq.ft., situate at Tirumullaivoyal Village, Avadi Taluk, Tiruvallur District. The said property has been offered as a collateral security in respect of the borrowal done by one Prabhu Daniel, S/o. Vincent Devaraj. The UCO Bank, Anna Salai Branch, Chennai, in lieu of the default committed by the borrower, has initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Secured Interest Act, 2002 [in short 'SARFAESI Act'] and thereafter, sold the property in favour of the petitioner and he has also been issued with the Sale Certificate dated 09.04.2018, which also came to be registered as Doc.No.3836 of 2018 on the file of the office of the Sub Registrar, Ambattur. M/s. UCO Bank, Anna Salai Branch, Chennai, also filed an application dated 11.04.2018 under Section 1[1] of the SARFAESI Act, before the 1st respondent, who vide impugned order dated 19.11.2019, has rejected the said petition for the reason that the property has already been auctioned and sold before obtaining the orders under Section 14[1] of the SARFAESI Act and challenging the legality of the order, the present writ petition came to be filed by the petitioner.

(4) The learned counsel for the petitioner has drawn the attention of this Court to the impugned order and would submit that the official who passed the order, is repeatedly making very same kind of error or mistake despite the fact that this Court, vide order dated 10.01.2020 in WP.No.562 of 2020 **[Canara Bank, Assets Recovery Management Branch, Chennai-18 Vs. The District Magistrate and District Collector, Tiruvallur and Others]** has interfered with the similar kind of order and prays for interference.

(5) **Per contra**, Mr. V. Jayaprakash Narayan, learned Government Pleader appearing for the 1st respondent would submit that the order may be set aside and remanded to the 1st respondent for fresh consideration and for passing orders in accordance with law.

(6) This Court has considered the rival submissions and also perused the materials placed before it.

(7) As rightly pointed out by the learned counsel for the 1st respondent, viz., Tmt. Maheswari Ravikumar,

IAS, who was the District Magistrate and District Collector, Tiruvallur, had passed similar kind of order, which was the subject matter of challenge in WP.No.562 of 2020 [cited supra] and this Court, vide final order dated 10.01.2020, has set aside the said order and remanded the matter to the said official for fresh consideration and despite being a party in the said litigation also, it is unfortunate that the 1st respondent is repeatedly passing these kind of orders and it would also disclose the non-application of mind to the relevant facts and circumstances as well as the legal position.

(8)The Commissionerate of Revenue Department and Disaster Management, Chepauk, Chennai-600 005, has also issued a Circular in ROC.RA.No.6[3]/6075/2019 dated 01.03.2019 to all the District Collectors as to how the applications filed under Section 14[1] of the SARFAESI Act, have to be dealt with and despite such a Circular issued by the superior official, the 1st respondent and some of the other officials also routinely passing these kind of orders. In the considered opinion of the Court, the contents of the impugned order passed by the 1st respondent would disclose lack of application of mind to the relevant statutory provisions as well as the Circular issued by the superior official.

(9)The 1st respondent is rather under misconception that once the secured assets are sold, Section 14 of the SARFAESI Act, cannot be invoked. The said view is also contrary to the Judgment of the Hon'ble Supreme Court of India reported in **2014 MANU SC 263 [ITC Hotels Limited V. Blue Coast Hotels Limited and Others]** and the said judgment has also been referred to the above said order passed in WP.No.562 of 2020.

(10)In the considered opinion of the Court, there is an error apparent on the face of the record in the impugned order passed by the 1st respondent, who also failed to exercise the jurisdiction properly. सत्यमेव जयते

(11)In the result, the writ petition is **PARTLY ALLOWED** and the impugned order dated 19.11.2019 passed by the 1st respondent in Rc.No.8139/2018/M2, is **set aside** and the matter is, once again remanded to the 1st respondent who shall take into consideration the above cited decision as well as the Circular and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 2nd respondent. No costs. Consequently, the connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar (CS)

// True Copy //

AP

TO

1.The District Magistrate  
& District Collector,  
Master Plan Complex, NH 205, Chennai-  
Tirutani Highway, Tiruvallur 602 00.

2.The Authorised Officer  
UCO Bank  
No.212, Mount Road Branch  
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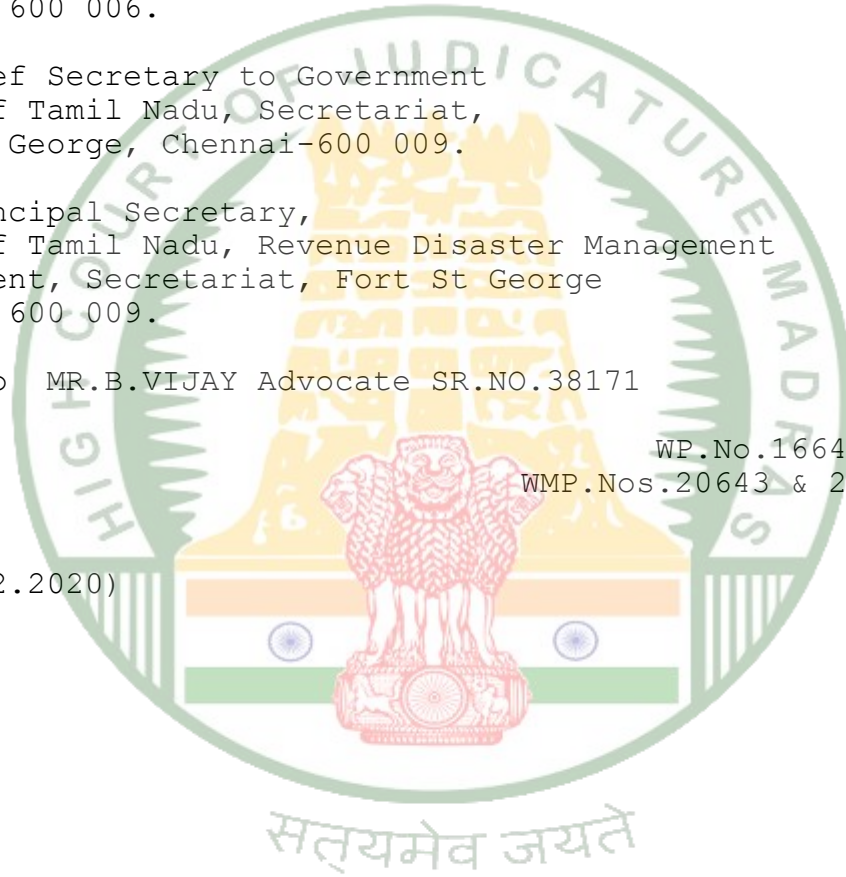
3.The Chief Secretary to Government  
State of Tamil Nadu, Secretariat,  
Fort St George, Chennai-600 009.

4.The Principal Secretary,  
State of Tamil Nadu, Revenue Disaster Management  
Department, Secretariat, Fort St George  
Chennai 600 009.

+3 C.C. to MR.B.VIJAY Advocate SR.NO.38171

WP.No.16643/2020 &  
WMP.Nos.20643 & 20644/2020

PVS (CO)  
UMY (17.12.2020)



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