



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

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CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

WRIT PETITION NO.21620 OF 2021 & WMP.NO.22812 OF 2021

K.Kannan

...Petitioner

Vs

1.The Administrative Officer,
City Union Bank Ltd.,
No.24-B, Gandhi Nagar,
Kumbakonam-612 001.

2.The Branch Manager,
City Union Bank,
Virugambakkam Branch,
No.15, Kaliyamman Kovil Street,
Chennai-600 092.

3.M/s.Sri Selvam Traders, rep.by
its Proprietor L.Ramanathan
Anna Nagar West, Chennai-600 050.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent bank in A.O/Legal/2486/2021-22 dated 07.9.2021, quash the same and consequently direct the 1st and 2nd respondents bank to remove the attached machineries belonging to the 3rd respondent from the petitioner's premises in Survey No.275/5, total extent of 20 cents, situated at Thiruvallur District, Ambatur Taluk, Ayyappakkam Village within the Sub Registration District and Taluk of Ambattur forthwith and accordingly pay rent at the rate of Rs.15,000/- per month to the petitioner from the month of December 2020 till vacating the property. Within a reasonable time that may be fixed by this Hon'ble Court.



For Petitioner : Mrs.Dakshayani Reddy for Mr.P.Rajavel

Order of the Court was made by T.S.SIVAGNANAM, J

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We have heard Mrs.Dakshayani Reddy, learned counsel appearing for Mr.P.Rajavel, learned counsel on record for the petitioner.

2. The petitioner is the owner of the premises, in which, the third respondent was inducted as a tenant. The third respondent appears to have availed financial facility from the respondent bank. They became a defaulter and the respondent bank initiated recovery proceedings and as of now, the Debts Recovery Tribunal-I, Chennai (for short, the Tribunal) has seized of the matter in O.A.No.1 of 2017. The petitioner submitted a representation to the respondent bank stating that the third respondent, who is a defaulter, had mortgaged movable assets, which are situated inside the premises, in favour of the bank to secure the loan transaction. But, so far as the building is concerned, it is owned by the petitioner and till the order of attachment was passed, the third respondent was remitting monthly rent to the petitioner and after the order of attachment, they stopped paying the rent. Therefore, the petitioner requested the respondent bank to remove the mortgaged movable assets situated within the premises and hand over vacant possession to the petitioner or in the alternative, to pay rent at the market rate till the premises is vacated and handed over vacant possession.

3. The respondent bank, by the impugned order, informed the petitioner that the Debts Recovery Tribunal-I, Chennai has seized of the matter and an advocate commissioner has been appointed and the property has been attached and after the proceedings are concluded before the Tribunal, appropriate action would be initiated.

4. The learned counsel for the petitioner would submit that the assets, which have been mortgaged, are machinery and other movables situated within the premises, that the building is owned by the petitioner, that on account of the order of attachment, the respondent bank is enjoying a rent free accommodation by holding on to the property and the that same should not be permitted.



5. It may be true that the respondent bank cannot have a claim over the immovable property, as it is represented that the properties, which have been mortgaged, were machinery and movables. In any event, we do not propose to issue any direction, as it would result in multiplicity of proceedings. Therefore, it would be appropriate for the petitioner to seek for impleadment in the proceedings before the Tribunal and seek appropriate directions.

6. The learned counsel for the petitioner submits that the petitioner, not being a borrower, would not be entitled to approach the Tribunal.

7. The petitioner need not have such apprehension as we are inclined to grant liberty to the petitioner to implead himself in O.A.No.1 of 2017 and seek appropriate directions.

8. In the result, the writ petition is disposed of by directing the petitioner to get himself impleaded in O.A.No.1 of 2017 before the Tribunal and if such an application is filed, the Tribunal shall entertain the same and consider the prayer made by the petitioner after notice to the respondent bank and the third respondent. It is stated that the Tribunal already disposed of the said original application and a recovery certificate has already been issued. However, we grant liberty to the petitioner to file a miscellaneous application for impleadment in the said original application, which shall be considered on merits and as expeditiously as possible and preferably within a period of six weeks from the date, on which, the miscellaneous application is filed. Consequently, the connected WMP is closed.

Sd/-

Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

RS



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