



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.7659 of 2022

and W.M.P. (MD) No.5777 of 2022

P.Ramesh

.. Petitioner

Vs

1.The Authorised Officer,
M/s. Kotak Mahindra Bank Ltd.,
Asset Construction Division,
1st Floor, Ceebros Centre,
No.39, Motieth Road, Egmore,
Chennai.

2.The Manager,
Kotak Mahindra Bank Ltd.,
Byepass Road, Near Apple Hotel,
Vannarpettai, Tirunelveli.

3.Recovery Officer,
Debts Recovery Tribunal,
4th Floor, Dewa Towers,
770/A, Anna Salai,
Chennai - 600 002.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to pass orders based on the petitioners representation dated 30.03.2022 and further to open the shop of the Petitioner in T.S.No.589/18.

For Petitioner	:	Mr.G.Kasinathadurai
For Respondents	:	Mr.Pala Ramasamy
		Standing Counsel
		For R1 and R2

ORDER

(Made by R.VIJAYAKUMAR, J.)

The present writ petition has been filed seeking a Writ of Mandamus directing the respondents to dispose of the representation of the petitioner dated 30.03.2022 and open the shop of the petitioner in T.S.No.589/18.

2. The petitioner claims to be a purchaser from the borrower of the second respondent bank. A Debt Recovery Certificate has been issued as against the fifth defendant in O.A.No.1134 of 2000 on



16.03.2004. It was followed by a demand notice dated 13.08.2004. Since the demand was not met, order of attachment was passed by the Debts Recovery Tribunal No-II, Chennai on 21.03.2004.

3. According to the petitioner, he has entered into a sale agreement with the said borrower on 11.03.2015. However, such sale agreement is not placed in the paper book. Challenging the said order of attachment, a claim petition was filed by the writ petitioner in M.A.No.168 of 2017. The claim petition was dismissed on 07.09.2017. The dismissal of the claim petition was challenged by way of Civil Revision Petition in C.R.P.(PD)(MD) No.2292 of 2018. The said revision petition was dismissed by a Division Bench of this Court on 29.11.2018 directing the writ petitioner to approach the Debt Recovery Appellate Tribunal. However, so far the said exercise has not been done by the writ petitioner. The petitioner claims that, a sale deed has been executed in his favour on 23.11.2018. The main ground on which the writ petitioner seeks to attack the order of attachment is that the attachment order is restricted to Survey Nos.589/1A3 and 589/1A3A.

4. However a perusal of sale deed dated 23.11.2018 indicates that the old survey number is S.No.589/1A3A, for which the Town Survey is 589/18. Since the writ petitioner is a purchaser from the borrower, after the order of attachment and dismissal of claim petition, we do not find that, the writ petitioner is a bonafide purchaser. Therefore there is nothing to interfere in the matter.

5. This writ petition is dismissed. No costs. Consequently, connected miscellaneous petition would not survive.

Sd/-

Assistant Registrar (AD-II)

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/ /2022

Sub Assistant Registrar(CS)

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To
The Recovery Officer,
Debts Recovery Tribunal,
4th Floor, Dewa Towers,
770/A, Anna Salai,
Chennai - 600 002.

+1 CC to M/s.G. KASINATHADURAI, Advocate (SR-20552[F]
dated 22/04/2022)

W.P(MD)No.7659 of 2022

22.04.2022