



W.P.No.9625 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9625 of 2023

M/s.Vallavan Chettinad Restaurant,
rep. by its Proprietor P.Kavitha
New Door No.33, Old No.132, MMDA Colony,
Main Road, Arumbakkam,
Chennai-600 106.

.. Petitioner

Vs

- 1.The Authrized Officer,
State Bank of India,
Stressed Assets Recovery Branch,
No.32, 2nd Floor, Red Cross Road,
Egmore, Chennai-600 008.
- 2.The Specialist Clinic & Hospital,
rep. by its Partner Dr.R.Manivannan,
No.1/9, Rajamannar Salai,
Vijayaraghavapuram,
K.K.Nagar (West),
Chennai-600 093.

- 3.Lashmipriya Manivannan
- 4.Dr.R.Manivannan

.. Respondents



W.P.No.9625 of 2023

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent to de-seal the Vallavan Chettinad Hotel of the petitioner situated at New Door No.3, Old No.132, MMDA Colony Main Road, Arumbakkam, Chennai-600 106 by granting 90 days time to the petitioner to vacate the premises.

For the Petitioner : Mr.R.Marudhachalamurthy

For the Respondents : Mr.K.Chandrasekaran
for respondent No.1

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the first respondent to de-seal the petitioner's restaurant situated at New Door No.3, Old No.132, MMDA Colony Main Road, Arumbakkam, Chennai-106 by granting 90 days time to the petitioner to vacate the premises.

2. Learned counsel appearing for the petitioner submitted that the petitioner is a tenant under the fourth respondent, who has



W.P.No.9625 of 2023

borrowed a loan from the first respondent bank. Since the fourth respondent committed default in repaying the loan amount, the secured creditor initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "*the Act of 2002*"] against the secured asset without issuing notice to the petitioner, who is running the restaurant for the past 25 years.

3. The learned counsel would submit that the first respondent had obtained an order under Section 14 of the Act of 2002 and the advocate-commissioner appointed by the learned Chief Metropolitan Magistrate, Egmore has affixed notice in front of the petitioner's restaurant asking them to vacate the premises. Thereafter, the petitioner has filed S.A.No.378 of 2022 before the Debts Recovery Tribunal, Chennai and the Debts Recovery Tribunal, vide order dated 15.9.2022, directed the first respondent bank to extend one month's time to the petitioner and the petitioner was directed to deliver the vacant possession within one month from the date of the said order.



W.P.No.9625 of 2023

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4. Learned counsel for the petitioner further submitted that since the one month's time granted by the Debts Recovery Tribunal is not sufficient for the petitioner to make arrangements to re-locate the restaurant, the petitioner has preferred an appeal in RA (SA) No.27 of 2023 before the Debt Recovery Appellate Tribunal, Chennai. However, without looking into the urgency with which the petitioner has filed the appeal, the Debt Recovery Appellate Tribunal has not granted any order in the appeal. In the meanwhile, the petitioner's restaurant was locked and sealed by the first respondent bank making the pending RA (SA) No.27 of 2023 infructuous. Therefore, the petitioner has been advised to file the present writ petition invoking the extraordinary jurisdiction under Article 226 of the Constitution of India.

5. We are unable to find any merit in the writ petition. It is well settled that once the Debt Recovery Appellate Tribunal is seized of the matter and the appeal filed by the petitioner is pending for consideration before it, invocation of the extraordinary jurisdiction under Article 226 of the Constitution of India before this Court is clearly barred. Therefore, the petitioner is advised to approach the Debt Recovery Appellate Tribunal for appropriate relief by seeking an



W.P.No.9625 of 2023

expeditious hearing. If any such request is made, the Debt Recovery Appellate Tribunal may consider the same and pass orders on merits and in accordance with law.

6. With the above observation, the writ petition is dismissed.

There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
29.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

The Authrized Officer,
State Bank of India,
Stressed Assets Recovery Branch,
No.32, 2nd Floor, Red Cross Road,
Egmore, Chennai-600 008.

Copy to:

The Registrar,
Debt Recovery Appellate Tribunal,
Chennai.



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W.P.No.9625 of 2023

THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

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W.P.No.9625 of 2023

29.03.2023