



W.P No.3516 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P No.3516 of 2024
and W.M.P.No.3772 of 2024

M/S.Kotak Mahindra Bank Ltd
Asset Reconstruction Division,
Rep. By Its Senior Vice President,
No.402, Samson Towers, 5th Floor,
Pantheon Road, Egmore, Chennai-600 006.

.. Petitioner

-VS-

1. The Joint Commissioner Tax Officer
32, Elephant Gate Street,
Vepery, George Town, Chennai-600 003.
- 2.The Deputy Commissioner Tax Officer
Zone VI, Valluvarkottam Assessment
Circle, No.10, Palaniappa Maaligai,
3rd Floor, Greams Road, Chennai-600 006.
- 3.The Assistant Commissioner Tax Officer
Pondy Bazzar Assessment Circle,
No.46, Mylapore Taluk Office Building,
VI Floor, R.A.Puram, Greenways Road,
Chennai-600 028.



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4.The Recovery Officer DRT-III Chennai
6th Floor, Additional Office Building,
Shastri Bhavan, Haddows Road,
Nungambakkam, Chennai-600 006.

5.C.Ramaiah
The Advocate Commissioner,
Sree Ganesh Apartments,
II Floor, No.51/31, 8th Street,
Sowrashtra Nagar, Choolaimedu,
Chennai-600 094.

6.Anand Cine Service Private Ltd
Rep. By Its Director,
Anand Prasad, Old Door No.2,
Sarangapani Street, T.Nagar,
Chennai-600 017.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 3rd Respondent herein To Hand Over Physical Vacant Possession Of The Subject Property Namely Bearing Old Door No. 2, Sarangapani Street, T.Nagar, Chennai-600 017, Measuring An Extent Of 3 Grounds 2280 Sq. Feet To The 5th Respondent Herein In Compliance Of The Warrant Issued By The 4th Respondent Dated 29.09.2023 In Trc No. 276/2023 In O.A.No.84/2011.

For the Petitioner : Mr.Om Prakash, Senior Counsel
for M/s.Ramalingam Associates

For the Respondents : Mr.M.Venkateswaran
Special Government Pleader (Taxes)
-for RR 1 to 3.

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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Om Prakash, learned Senior Counsel for the petitioner and Mr.M.Venkateswaran, learned Special Government Pleader (Taxes) for the respondents 1 to 3.

2. Learned Senior Counsel appearing for the petitioner submits that the present petitioner is the creditor. O.A.No.84 of 2011 was filed against the borrower and guarantors. Recovery Certificate is issued and it is presented for execution. However, the execution could not take place because the third respondent had put its lock and seal over the lock and seal of the petitioner. The petitioner put its lock and seal because the order of attachment was passed in favour of the petitioner by the Recovery Officer.

3. Learned Special Government Pleader (Taxes) appearing for the third respondent submits that the dues of the third respondent are cleared. The third respondent now has nothing to recover from the person who was holding the possession of the property. They removed



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their lock and seal. Therefore, there is no impediment for the respondents 1 to 3 for execution of the Recovery Certificate.

4. In view thereof, the Recovery Officer, Debts Recovery Tribunal-III, Chennai shall proceed ahead with the execution of the Recovery Certificate and may take all possible steps such as, directing police protection for taking over possession with the aid of the Commissioner and such further steps qua the property for recovery of the amount under the Recovery Certificate. The Recovery Officer also has got powers to direct the certificate debtor to be detained in civil prison. The petitioner is at liberty to take all steps as permissible under the Second Schedule of the Income Tax Act.

With the above directions, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(J.S.N.P., J.)

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Index : Yes/No
Neutral Citation : Yes/No
kst



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