



WP No.1389 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM

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

AND

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

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and WMP No.1417 of 2024

Indian Bank
Stressed Asset Management (SAM) Branch,
No.55, Ethiraj Salai, Egmore,
Chennai 600 008, Rep. by its Chief Manager,
Mr.Naresh Kumar Parida.

.. Petitioner

-VS-

1. The Commissioner,
Hindu Religious and Charitable Endowments
Department, No.129, Uthamar Gandhi Salai,
Nungambakkam, Chennai 600 034.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowments
Department, Vellore Division,
Sathuvachari, Vellore-9.
3. The Assistant Engineer,
Hindu Religious and Charitable Endowments
Department, Thiruvallur.
4. The Thakkar/Executive Officer,
Sidhi Buddhi Vinayagar Temple,
Varadharajapuram, Poonamallee.



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5. M/s.Sre Parthasarathi Hotels Pvt. Ltd.,
Rep. by its Authorised Signatory, Mr.P.C.Baskar,
No.8, Karpagambal Nagar, Chennai 600 004.

6. P.C.Baskar

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 3 to remove the lock and seal affixed by them over the mortgaged property being land and buildings comprised in S.No.390/1B 1B, Varadharajapuram Village, Poonamallee Taluk, Thiruvallur District, on the Bangalore Highway and consequentially permit the petitioner and respondents 5 and 6 to run the Kalyanamandapam and Hotel situate in the aforesaid property.

For Petitioner	:	Mr.Jayesh B.Dolia Senior Counsel for Mr.M.Praveen Kumar
For Respondents	:	Mr.NRR.Arun Natarajan Spl. Govt. Pleader (HR & CE), for RR 1 to 4
	:	Mr.Gautam S.Raman for M/s.Raman & Associates for R-6

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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Jayesh B.Dolia, learned senior counsel for the petitioner, Mr.NRR.Arun Natarajan, learned Special Government Pleader for respondent Nos.1 to 4 and Mr.Gautam S.Raman, learned counsel for respondent Nos.5 and 6.



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2. The writ petition is filed by the bank (secured creditor). The present petitioner had advanced loan to respondent Nos.5 and 6. Upon default being committed by respondent Nos.5 and 6, the petitioner resorted to measures under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI). The bank took over possession of the secured asset. In the secured asset, the business of hotel and a marriage hall was run.

3. The Hindu Religious & Charitable Endowments (HR & CE) Department passed an order under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, with regard to the said asset holding that it is a temple land. In the said proceedings, the Joint Commissioner also observed that he cannot decide the title of the property. After the order is passed by the Joint Commissioner and affirmed by the Commissioner, the respondent Nos.5 and 6 filed a civil suit bearing O.S.No.286 of 2022 challenging the order of the Joint Commissioner and the Commissioner. It appears that respondent Nos.5 and 6 in the said suit did not seek the relief of declaration of



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ownership, however, when the order of the HR & CE is challenged, the same is challenged on the premise that respondent Nos.5 and 6 are the owners of the property. The respondent Nos.5 and 6 can suitably amend the plaint so as to set at rest the entire gamut of the dispute.

4. The Collector has also passed an order on 04.09.2015 holding that except S.No.390/2, the other survey numbers bearing No.390/1A, 390/1B and 374 are patta lands. The order of the HR & CE is otherwise. It holds the land to be a temple land. It is the case of respondent Nos.5 and 6 that they are the owners and possessors of the said land since the year 1930 and patta is also issued in their favour.

5. The issue of title would be effectively and conclusively decided in the civil suit filed by respondent Nos.5 and 6 which is pending.

6. There are contradictory orders. The issue of title is not yet conclusively decided. The same would be decided only in the civil suit. During the interregnum, the property cannot be kept idle. It would be in nobody's interest to keep the property idle and allow it to



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deteriorate. The property was used to run a hotel and a wedding hall. It would be appropriate if the property is used for the same purpose. The dispute would be about the entitlement of the proceeds from the business that would be run. If the property belongs to the temple, then the amount would naturally go to the temple and not to respondent Nos.5 and 6 and/or the bank and if respondent Nos.5 and 6 are declared as owners, then the amount can certainly be claimed by the bank, which is a secured creditor. In light of that, we pass the following order:

- a) The bank can give on lease the hotel and the marriage hall by appropriate method. The proceeds, that is, the lease amount, shall be deposited to the credit of the civil suit bearing O.S.No.286 of 2022 filed by respondent Nos.5 and 6 and the same shall be kept in a Fixed Deposit by the Court so that the amount would earn interest;
- b) The said arrangement is made till the disposal of the civil suit O.S.No.286 of 2022. Depending upon the judgment delivered by the civil Court, the amount deposited would be withdrawn by the parties.
- c) During the pendency of the said civil suit, it will be the



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responsibility of the bank to ensure that the property in question is maintained properly. Only because we have permitted the bank to give the said property on lease and deposit the proceeds, that would not mean that we have decided about the rights of the bank and/or the HR & CE in question. The same would certainly be depended upon the decision given in the civil suit to which the borrower and the HR & CE are parties.

- d) This is only an interim arrangement made between the parties so that the property would be safeguarded and also income would be derived. We have not conclusively decided about the rights, title and interest of respective parties. The same would be decided by the civil Court.
- e) In case the decision of the civil suit goes in favour of the HR & CE department, then the HR & CE would be entitled for the said property and the bank and the borrower would not have any objection to the same. The HR & CE may have symbolic possession, however, for all practical purposes, the bank would give on lease the said property.
- f) The property shall be de-sealed by the HR & CE.



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With the aforesaid observations, 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

sra

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