



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN
W.P.(MD) No.7881 of 2017 &
W.M.P.(MD).No.6111 of 2017

1.T.Sangeetha
2.A.Thirupathi

.. Petitioners

Vs.

1.The Branch Manager,
Canara Bank,
Chairman Shanmuga Nadar Road,
Near Ulavar Sandhai,
Sivakasi Town.
2.M/s.Sun Fireworks Factory,
Rep. by its Managing Partner,
A.Ramesh @ Neerathalingam
S/o.Late.N.Ayya Nadan,
59, Subramaniyar Kovil Street,
Sivakasi Town.
3. A.Ramesh @ Neerathalingam
S/o.Late.N.Ayya Nadan,
27-A, Subramaniyar Kovil Street,
Sivakasi Town.
4.Mrs.Sornalatha
5.Mrs.Revathi
6.Kannan

...Respondents

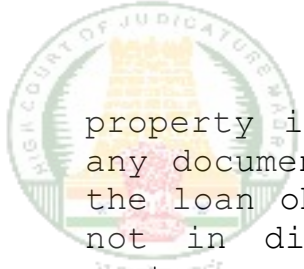
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the 1st respondent to handover the original Title Deed No.5833 of 2014, dated 16.09.2014, pertaining to the petitioners' house property situate at No.24, Subramaniyar Kovil Street, Sivakasi Town, to the petitioners.

For Petitioners : Mr.P.V.Sudhakar

O R D E R

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

The petitioners in this case have sought for a direction to the 1st respondent to handover the original title Deed No.5833 of 2014, dated 16.09.2014. It is the case of the petitioners that the subject



property is their individual property and they have not executed any document in favour of the first respondent bank as security to the loan obtained by the second respondent partnership firm. It is not in dispute that the first petitioner is also one of the partners of the second respondent firm. It is her definite case that she has not executed mortgage deed in respect of the property for which possession notice dated 10.02.2017 has been issued.

2. In our considered view, whether the first petitioner has executed a mortgage deed or not is a question of fact to be ascertained by the appropriate forum, more so in the light of the stand taken by the bank in their reply letter dated 30.03.2017, in response to the petitioners' representation dated 24.02.2016. Therefore, the petitioners have to necessarily approach the Debts Recovery Tribunal as against the possession notice issued under the provisions of SARFAESI Act. Leaving such issue open, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

ASSISTANT REGISTRAR(Records)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1.The Branch Manager,
Canara Bank,
Chairman Shanmuga Nadar Road,
Near Ulavar Sandhai, Sivakasi Town.

+1 CC TO MR. P.V.SUDHAKAR,ADVOCATE,SR NO.21143

jikr

MAS/JC:08.05.2017:2P-3C

W.P.(MD) No.7881 of 2017 &
W.M.P.(MD).No.6111 of 2017
26.04.2017