



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI**

W.P. (MD) No.22749 of 2019

and

W.M.P. (MD) No.19502 of 2019

E.Kalaiselvi

... Petitioner

-vs-

1.The District Collector cum
District Magistrate
Collectorate
Madurai

2.The Thasildar
North Taluk
Madurai

3.The Authorized Officer
Tamilnadu Mercantile Bank Ltd.,
Simmakkal Branch
Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the 1st respondent from taking possession of the ground floor of the building bearing D.No.3/409-1, VOC Street, Indian Bank Colony, Madurai-14 (S.No.390/4 corresponding to R.S.390/5) measuring 1657.50 sq.ft wherein the petitioner is in occupation for her residential purpose as a lawful tenant, till the month of May 2020.

For Petitioner : Mr.M.Ponniah

For Respondents : Mr.M.Murugan
Government Advocate for R1 & R2
Mr.N.Dilip Kumar for R3



O R D E R

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

The petitioner, who is a tenant in respect of the ground floor of a building, which has been taken over by the third respondent / Bank under the provisions of the SARFAESI Act, seeks for a direction upon the respondents 1 to 2 to forbear the third respondent / Bank from dispossessing her.

2. The petitioner earlier approached this Court and filed a writ petition in W.P.(MD) No.4409 of 2019 for an identical relief and the said writ petition was dismissed as withdrawn with liberty to approach the Debt Recovery Tribunal. Instead of approaching the Debt Recovery Tribunal, once again the petitioner is before this Court by filing this writ petition. This is sufficient to dismiss the writ petition. The conduct of the petitioner, as could be seen from the material papers, is to drag on the matter and she has been doing so since January, 2019.

3. It is submitted by the learned counsel appearing for the petitioner that the petitioner has got two school going children and reasonable time may be granted to her to vacate and handover the vacant possession of the property to the third respondent / Bank.

4. We cannot exercise any such compassion in the instant case and it is wholly for the third respondent / Bank to consider such a request, provided the petitioner files an affidavit of undertaking to vacate the property.

5. In our considered view, thirty (30) days time may be reasonable, provided the petitioner files an affidavit of undertaking before the third respondent / Bank agreeing to vacate the property.

6. With the above observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

krk



To:

1.The District Collector cum
District Magistrate,
Collectorate, Madurai.

2.The Thasildar,
North Taluk,
Madurai.

+1CC TO MR.N.DILIP KUMAR, Advocate Sr. No.94995

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.94895

W.M.P. (MD) No.19502 of 2019

25.10.2019

DB (CO)

TR(05.11.2019) 3P 5C