



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.23967 of 2019

and

W.M.P. (MD) No.20584 of 2019

Bennadict Shakila

... Petitioner

-vs-

The Branch Manager,
Central Bank of India,
Alloor Branch,
Sunkankadai,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to remove the seal affixed by the respondent in the petitioner's residential house bearing door No.5-286A, Karuvandankuzhi Vilai, Tharathattu, Karungal Post, Kanyakumari District by regularizing the bank account of the petitioner by receiving the due as on date so as to enable the petitioner to reside in her house by considering the representation of the petitioner dated 21.10.2019 within a stipulated time that may be fixed by this Hon'ble Court.

For petitioner : Mr.S.C.Herold Singh

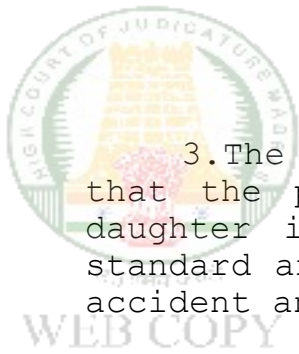
For Respondent : Mr.R.Pandivel

O R D E R

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

The petitioner, who is a chronic defaulter, is aggrieved by the action initiated by the respondent in taking possession of the house property, which is mortgaged and also taking steps to bring the property for sale.

2.When we heard the matter, we were under the impression that the petitioner was thrown out of the premises with all their articles inside. However, the learned counsel appearing for the respondent today would submit that all the belongings have been removed and proper panchanama has been recorded and possession has been taken a month ago.



3.The learned counsel appearing for the petitioner would submit that the petitioner is a lady and she had two children and her daughter is studying 3rd year B.B.A. and her son is studying 7th standard and her husband is not reporting to duty on account of the accident and they are in financial difficulty.

4.In our considered view, we cannot issue any direction based on sympathetic consideration because admittedly the transaction between the bank and the petitioner is a commercial transaction and all the conditions have been clearly stated in the hypothecation agreement and having accepted the same the petitioner has availed the loan.

5.Mr.S.C.Herold Singh, the learned counsel appearing for the petitioner would submit that substantial payment will be made by the petitioner and the house may be unlocked and unsealed.

6.We cannot issue any positive direction. We make it clear that it is for the respondent to decide in the matter, in the event of a genuine offer by the petitioner to make substantial payment because the dues as on date will be more than Rs.11,00,000/-.

7.In view of the above, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

sj

+1 CC to Mr.R.PANDIVEL, Advocate (SR-99168[F] dated 18/11/2019)

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