



WEB COPY

W.P.[MD]No.9237 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. [MD]No.9237 of 2021

and

W.MP(MD).Nos.6966 and 6967 of 2021

S.Maharani

... Petitioner

Vs.

1.The Authorised Officer

Indian Overseas Bank

Aruppukottai Branch

No.310, B6 & B7, Sunder Complex

1st Floor, Tiruchuli Road

Aruppukottai 626 101

Virudhunagar District

2.M/s.Krishna Gandhi Pyotech Factory

Represented by its partners

Sattur to Kottur Road

Nallamanaickenpatti Village

Sattur Taluk, Virudhunagar District

3.Mr.M.Chinna Karuppasany

4.Mrs.T.Petchiammal

5.Mr.J.R.Naveen Jacson

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the Learned Chief Judicial Magistrate, Virudhunagar in CrI.M.P.No.36 of 2020 dated 08.03.2021 and quash the same as illegal and unconstitutional and consequently forbearing the 1st respondent, its men, agents from interfering with the physical possession of the petitioner and from in any manner evicting the petitioner from the property comprised in Survey No.76/1B and 76/2B, 77/1, 77/2, 77/3 situated at Nallamanaickenpatti Village, Sattur Taluk, Virudhunagar District.

For Petitioner

: Mr.G.Thalaimutharasu

For R1

: Mr.N.Dilip Kumar

Standing Counsel



ORDER

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

We have heard Mr.G.Thalaimutharasu, learned counsel appearing for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel appearing for the first respondent.

2. This Writ Petition has been filed challenging the impugned order issued by the Learned Chief Judicial Magistrate, Virudhunagar in CrI.M.P.No.36 of 2020 dated 08.03.2021 and quash the same as illegal and unconstitutional and consequently forbearing the 1st respondent, its men, agents from interfering with the physical possession of the petitioner and from in any manner evicting the petitioner from the property comprised in Survey No.76/1B and 76/2B, 77/1, 77/2, 77/3 situated at Nallamanaickenpatti Village, Sattur Taluk, Virudhunagar District.

3. When the matter came up for earlier occasion, we directed the learned counsel appearing for the respondent bank to verify and report whether actual physical possession has been taken by the respondent bank on the secured asset.

4. Today, the typed set of papers have been filed containing copy of the learned Advocate Commissioner's report dated 27.03.2021 annexed with photograph to show that the actual physical possession of the property has been taken over. Therefore, the petitioner has to workout his remedy before the Debts Recovery Tribunal.

5. The learned counsel appearing for the petitioner submitted that challenging the sale certificate, the petitioner has filed a SARFAESI appeal before the Debts Recovery Tribunal, Madurai, which is yet to be numbered. The Debts Recovery Tribunal is directed to number the SARFAESI appeal, if in order and hear the matter as expeditiously as possible. It is left open to the petitioner to challenge the order passed by the District Collector under Section 14 of the SARFAESI Act, if so advised.

6. With the above observations and liberty, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

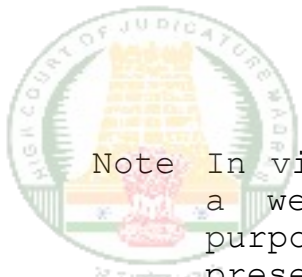
Sd/-

Assistant Registrar (ADII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-19131[F] dated 10/06/2021)

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-19147[F] dated 10/06/2021)

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KB(16.06.2021) 3P 3C