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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

**W.P(MD)NO.21391 OF 2019
and
W.M.P(MD)No.18060 of 2019**

Jayanthi Mala

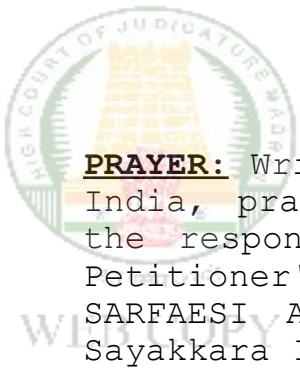
:Petitioner

.vs.

- 1.The District Collector,
The District Collector Office,
Thiruchirappalli District.
- 2.M/s.Indian Overseas Bank,
having its registered office at Chennai and
one of its branches namely Abishekapuram Branch,
Kallukuzhi Main Road,
Mannarpuram,
Trichy - 620 020.
represented by its Chief Manager.
- 3.M/s.Shree Venkateswara Engineering Works,
represented by its Proprietor Mr.T.V.Shanmugasundaram,
D 28, Developed Plots,
SIDCO Estate,
Thuvakudi,
Trichy 620 015.
- 4.T.V.Shanmugasundaram,
- 5.Mala @ Mangalam
- 6.Mukesh Kumar

: Respondents

(R6- impleaded as per order of this Court made in
W.M.P(MD)No.12009 of 2020 in W.P(MD)No.21391 of 2019, dated
01.11.2021)



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus forbearing the respondents 1 and 2 from taking physical possession of Petitioner's father's house property by invoking Section 14 of SARFAESI Act, which is situated in the eastern row of Keela Sayakkara Lane in T.S.No.2054/1, 2054/3, 2054/2 old Door No.14, New Door No.24, Diamond Bazzar at Trichy.

For Petitioner	:Mr.S.Vinayak
For Respondent-1	:Mr.P.Thilakkumar Govt.Pleader
For Respondent-2	:Mr.P.Pandivel Standing Counsel
For Respondents 3 to 5	:Mr.S.Satheeshkumar
For Respondent-6	:Mr.K.S.Vamsidhar

O R D E R

[Order of the Court was made by **M.DURAISWAMY.,J.**]

The Petitioner has filed the above Writ Petition to issue a Writ of Mandamus forebearing the respondents 1 and 2 from taking physical possession of the Petitioner's father's house property by invoking Section 14 of the SARFAESI Act, which is situated in the eastern row of Keela Sayakkara Lane in T.S.Nos.2054/1, 2054/3, 2054/2 old Door No.14, New Door No.24, Diamond Bazzar at Trichy.

2.Mr.P.Pandivel, learned Standing Counsel appearing for the second respondent submitted that the first respondent has not even passed an order under Section 14 application. The Petitioner anticipating an adverse order being passed by the first respondent, has filed the present Writ Petition.

3.The proceedings under Section 14 of the SARFAESI Act is to facilitate the secured creditor from taking physical possession either from the borrower or from the guarantor. In the case of default in repaying the loan amount, the secured creditor has got jurisdiction to take physical possession of the property and to bring the property for sale, for realizing the loan amount. Therefore, the Writ Petition filed by the Petitioner cannot be entertained even if an order is passed by the first respondent/The District Collector in an application filed under Section 14 of the SARFAESI Act. Aggrieved party can only file an appeal under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal. The Writ Petition filed under Article 226 of the Constitution of India seeking for the relief, cannot be entertained.



4. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

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Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsn

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.

To

1. The District Collector,
The District Collector Office,
Thiruchirappalli District.

+1 CC to M/s.K.S.VAMSIDHAR, Advocate (SR-33502[F] dated 01/11/2021)

+1 CC to M/s.SPL.GP (SR-33527[F] dated 02/11/2021)

W.P (MD) NO. 21391 OF 2019

and

W.M.P (MD) No. 18060 of 2019

01.11.2021

MGJ/SKN (17.11.2021) 3P 4C