



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.23317 of 2021

and

W.M.P(MD) .Nos.19769 and 19770 of 2021

A.Sathiyavan

... Petitioner

Vs.

1.The District Magistrate/District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai.

3.The Authorised Officer,
Small Industries Development Bank of India,
Ground Floor, MADITSSIA Auditorium,
1A-4A, Dr.Ambedkar Road,
Madurai - 625 020.

4.T.Suresh Kumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent in Roc.No.C6/9187/2021 dated 23.04.2021, under Section 14 of the Act appointing the Tahsildar, Madurai North the second respondent herein, for taking physical possession of the subject property and the consequential notice issued by the second respondent dated 04.12.2021 fixing the date for taking possession on 24.12.2021 and quash the same.

For Petitioner : Mr.S.Suresh
For R-1 and R-2 : Mr.S.P.Maharajan,
Special Government Pleader.



O R D E R

(Order of the Court was made by C.V.KARTHIKEYAN, J.)

The Writ Petition has been filed in the nature of Certiorari with respect to an order of the first respondent / District Magistrate / the District Collector, Madurai District in R.O.C.No.C6/9187/2021 dated 23.04.2021 under Section 14 of the SARFAESI Act, appointing the Tahsildar, Madurai North / the second respondent to take physical possession of the subject property. A further consequential relief is sought that the notice of the second respondent / the Tahsildar, Madurai North Taluk fixing the date for taking possession to be interfered with by this Court.

2.It is seen that the notice of the second respondent is pursuant to an order of a Co-ordinate Bench of this Court in ***W.P (MD).No.19065 of 2021 dated 25.10.2021 [Suresh Kumar Vs. The District Magistrate / The District Collector, Madurai District and two others]***. The Co-ordinate Bench had directed that the second respondent Tahsildar therein who is also the second respondent herein must take immediate and appropriate steps in terms of an earlier order dated 23.04.2021 and help the respondent therein who is the secured creditor to obtain possession of the relevant immovable property and make it over to the auction purchaser / the petitioner in the aforesaid Writ Petition. It was also directed that the entire exercise should be completed within a fortnight after receipt of the copy of the said order.

3.It is contended by the learned counsel for the petitioner that the writ petitioner herein was not made a party in the aforesaid Writ Petition in W.P(MD).No.19065 of 2021. It is also contended that the writ petitioner herein was not heard prior to such an order being passed. It is also contended that questioning such an order, and seeking intervention in the said order, the petitioner had also filed a Writ Miscellaneous Petition and learned counsel therefore contends that till that Writ Miscellaneous Petition is taken up for consideration, some protection should be given for the petitioner herein. That would be exceeding our jurisdiction. When a Writ Miscellaneous Petition has already been filed, it is only appropriate that the particular Bench before whom the said Miscellaneous Petition is placed for consideration applies their mind and passes necessary orders. There cannot be instances of two separate Benches applying their mind on the very same issue and passing an order will only lead to inconsistency and that is an aspect which should not happen and which should be prevented from happening. The learned counsel is actually leading us to commit that particular error.

4.Let the Writ Miscellaneous Petition which had already been filed by the petitioner be examined by the Registry and if it is otherwise in order, placed on an early date before the Division



Bench which is allotted to hear the same and let the petitioner advance necessary arguments before the said Division Bench. A separate writ petition in this regard may not lie.

5. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR/LM

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 Magistrate/District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai.

+1 CC to M/s.SPL.GP (SR-40537[F] dated 30/12/2021)

W.P. (MD) .No.23317 of 2021
29.12.2021

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