



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.04.2022

Coram:

THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.8150 of 2022
and
W.M.P.Nos.8138 and 8142 of 2022

Saravanan

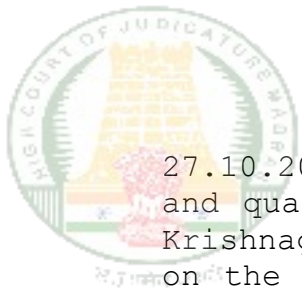
... Petitioner

Vs.

1. M/s.Kotak Mahindra Bank Limited,
27, BKC, C.27, Block Bandrakurla Complex,
Bandra (E) Mumbai-400 051,
Maharashtra, India,
having one of the Branch address at
Kotak House, 22, M.G.Road,
Bangalore-560 001,
Represented by its Authorised Officer
Mr.Ashok Kumar
2. K.Senthilkumar,
Advocate Commissioner,
Maharani Illam,
No.61, Ist Phase, TNHB,
Krishnagiri-636 001,
Krishnagiri District.
3. The Inspector of Police,
Denkanikottai Police Station,
Krishnagiari District.
4. M.Palaniyammal
5. M.Madhaiyan
6. Vignesh

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records made in Crl.M.P.No.3705 of 2021, dated



27.10.2021 passed by the Chief Judicial Magistrate, Krishnagiri and quash the same and directing the Chief Judicial Magistrate, Krishnagiri, pending disposal of the suit in O.S.No.70 of 2021 on the file of the Principal District Judge, Krishnagiri, filed by the petitioner against the 1st and 4th to 6th respondents herein to secure the ends of justice.

For petitioner : Mr.U.Kathiravan

ORDER

(The Order of the Court was made by The Honourable Chief Justice)

The Writ Petition has been filed challenging the order dated 27.10.2021 passed by the learned Chief Judicial Magistrate, Krishnagiri in CrI.M.P.No.3705 of 2021, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act').

2. Learned counsel for the petitioner submits that Original Suit has been filed by the petitioner, for partition of the properties in question and it is pending before the Principal District Court, Krishnagiri. The properties are said to have been mortgaged without the knowledge of the petitioner and otherwise, they are ancestral properties and partition of the same are sought in the said suit. But, in the meanwhile, the learned Chief Judicial Magistrate passed an order under Section 14 of the SARFAESI Act, deciding the rights of the petitioner. There being no option or remedy, the petitioner has filed this Writ Petition for quashing the order dated 27.10.2021 passed by the learned Chief Judicial Magistrate.

3. We have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

4. We find that the order under challenge is appealable under Section 17 of the SARFAESI Act and even by a person claiming some rights in the properties under dispute. The petitioner, instead of taking the remedy of appeal, has filed the present Writ Petition, alleging that he is interested in the properties, though mere filing of the suit for partition, would not mean acceptance of the claim of partition of the properties, rather, we find it to be a litigation while the financial institution has taken steps to secure the properties and accordingly, the learned Chief Judicial Magistrate has passed



the impugned order under Section 14 of the SARFAESI Act. However, we do not want to further make any comment, because, keeping the rights of the petitioner, open, to take the remedy of appeal under Section 17 of the SARFAESI Act, this Writ Petition is dismissed as not maintainable. Accordingly, the Writ Petition is dismissed. No costs. Consequently, W.M.Ps. are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

cs/grs
To

The Inspector of Police,
Denkanikottai Police Station,
Krishnagiri District.

Copy to

- 1.The Chief Judicial Magistrate,
Krishnagiri.
- 2.The Principal District Judge,
Krishnagiri.

+1cc to M/s.N.S.Jayanthi, Advocate Sr.23090
+1cc to the Government Pleader Sr.23246

W.P.No.8150 of 2022

mg[co]
srg 12/04/2022