



W.P(MD)No.1181 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.P(MD)No.1181 of 2022
and
W.M.P(MD)No.1033 of 2022**

S.Illaventhana Kalidoss

... Petitioner

VS.

1.The Authorized Officer,
Indian Bank, Palayamkottai Branch,
Palayamkottai,
Tirunelveli – 627 002.

2.Indian Bank,
Corporate Office,
Door No.254-260,
Avvai Shanmugam Salai,
Royapettah,
Chennai – 600 014.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to forbear to take physical possession of the petitioner's properties which is situated in Tirunelveli District, Palayamkottai Taluk, Kulavanigarapuram Village in Survey No.590, T.S.No.9/3, "Shafa Garden", Plot No.29 and 31, on the basis of the possession notice, dated 09.11.2021 issued by the



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respondents and to consider the petitioner's representation, dated 17.12.2021.

For Petitioner : Mr.R.M.Suresh

For Respondents : Mr.R.Pandivel

ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

The prayer made in this Writ Petition is to issue a Writ of Mandamus, directing the respondents to forbear to take physical possession of the petitioner's properties which is situated in Tirunelveli District, Palayamkottai Taluk, Kulavanigarpuram Village in Survey No.590, T.S.No. 9/3, "Shafa Garden", Plot No.29 and 31, on the basis of the possession notice, dated 09.11.2021 issued by the respondents and to consider the petitioner's representation, dated 17.12.2021.

2. The said notice was issued under Section 13(12) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, read with Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002. This is the statutory remedy given to the



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financial institution to take possession of the secured asset and to bring it to sale. The statute also further provides under Section 14 to move the Chief Metropolitan Magistrate or the District Magistrate to assist secured creditor in taking possession of the secured asset. So, when the statutory remedies are available to the secured creditor, there cannot be any estoppel against the statute. Such kind of prayer cannot be entertained.

3. Therefore, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D.,J.] [J.S.N.P.,J.]
14.09.2022

Index : Yes / No

Internet : Yes

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To

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Palayamkottai, Tirunelveli – 627 002.

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R.MAHADEVAN,J.
and
J.SATHYA NARAYANA PRASAD,J.

ps

ORDER MADE IN
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DATED : 14.09.2022