



W.P.(MD)No.2391 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.2391 of 2022
and W.M.P.(MD) No.2064 of 2022

S.Susila

... Petitioner

Vs.

1.The Authorised Officer,
Chief Manager,
Canara Bank,
Periyakulam,
Theni District.

2.The Branch Manager,
Canara Bank,
Periyakulam Branch,
Periyakulam,
Theni District.

3.United India Insurance Company Limited,
through its Branch Manager,
at 443, Periyakulam Road,
Theni District.

... Respondents

(R3 is impleaded vide Court Order dated
11.03.2022 in W.P.(MD) No.2391 of 2022
by PVJ & KRJ)

Prayer: Writ Petition filed under Article 226 of Constitution of India,
to issue a Writ of Certiorarified Mandamus, calling for the records
relating to Possession Notice issued by the 1st Respondent dated



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18.12.2021 and quash the same and consequently, direct the 1st and 2nd Respondent not to proceed with the sale and physical possession of the property.

For Petitioner : Mr.A.Joseph Jerry

For Respondents 1 & 2 : Mr.R.Pandivel
Standing Counsel

For 3rd Respondent : Mr.G.Prabhu Rajadurai
Standing Counsel

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition has been filed to quash the Possession Notice issued by the 1st Respondent dated 18.12.2021 and consequently, to direct the 1st and 2nd Respondent not to proceed with the sale and physical possession of the property.

2. Heard Mr.A.Joseph Jerry, learned counsel for the petitioner and Mr.R.Pandivel, learned Standing Counsel for the respondents 1 and 2 and Mr.G.Prabhu Rajadurai, learned Standing Counsel for the third respondent.



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3. Learned Standing Counsel appearing for respondents 1 and 2 submitted that the impugned notice was wrongly issued against a dead person and therefore, it was withdrawn. The said submission is recorded.

4. In view of the above, the prayer sought for in the writ petition has become infructuous. Therefore, the Writ Petition is dismissed as withdrawn. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

5. Learned counsel for the petitioner submitted that out of a sum of Rs.12 Lakhs advanced to the petitioner's husband, a sum of Rs.6 Lakhs, which was advanced on 03.03.2012 had been disbursed and a further sum of Rs.6 Lakhs, which has been released on 11.07.2022 had been appropriated by the bank itself without the knowledge of the petitioner. However, in the affidavit filed in support of the petition, the petitioner has come forward with a case that the bank has appropriated the second instalment of Rs.6 Lakhs towards the dues in respect of another loan account and towards interest amount. The statement of learned counsel for the petitioner is conflicting.



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6. Learned counsel for the petitioner further states that the deceased husband of the petitioner had a life insurance and that amount is also been taken by the bank. However, the Insurance Company has taken a specific stand that no amount is payable as there is no life insurance policy. It is also stated that the matter is sub-judice before the Consumer Disputes Reddressal Forum as to the entitlement of the petitioner to claim what is due under the Life Insurance Policy, which was taken by the petitioner's deceased husband.

7. This Court is of the view that it is not necessary to go into all those issues as petitioner has not come forward with any proposal with regard to repayment of loan.

[S.S.S.R., J.] [S.S.Y., J.]
07.07.2022

Index : Yes / No

sj



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and

S.SRIMATHY, J.

sj

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