



WEB COPY

W.P(MD)No.5481 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No. 5481 of 2022

S.Rethinam

.. Petitioner

Vs

1.The Chief Judicial Magistrate,
Karur,
Karur District.

2.Cholamandalam Investment and Finance
Company Limited, Chennai,
Branch Office at Trichy,
represented by its
Authorized Officer N.Surendrakumar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for records pertaining to the Impugned Order in Cr.M.P.No.553/2021 dated 10.12.2021 passed by the Respondent No.1 and quash the same as illegal.

For Petitioner : Mr.R.Venkatesan

ORDER

[Made by R.VIJAYAKUMAR, J.]

1. The present writ petition has been filed challenging the order passed by learned Chief Judicial Magistrate, Karur under Section 14(1) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the Act').

2. The petitioner has borrowed from the respondent finance company and he was issued with a notice under Section 13(2) the Act on 30.07.2021 and thereafter a notice under Section 13(4) on 21.10.2021. The possession notice was also published in two newspapers. Thereafter, the respondent finance company approached learned Chief Judicial Magistrate, Karur in Cr.M.P.No. 553 of 2021 for taking possession of the secured assets. Learned Chief Judicial Magistrate, Karur, after hearing the submissions made on the side of the company had passed an order, appointing an Advocate Commissioner, to take possession of the properties, which are the secured assets. The said order is under challenge in this writ petition.



3. The Division Bench of our High Court in the judgment reported in 2021 (3) CTC 383 (*Karvy Financial Services Ltd and others v District Magistrate and District Collector, Chennai and others* dated 23.04.2021), has also held that the scope and power of the authority under Section 14 of the Act is just administrative in character in order to assist in taking possession of the secured assets and the borrower need not be heard by the Chief Judicial Magistrate before passing an order under Section 14 of the Act. The only remedy available to the borrower is to approach the Debts Recovery Tribunal by challenging the possession notice under Section 13(4) of the Act by way of filing an appeal under Section 17 of the said Act.

4. The grounds raised by the writ petitioner cannot be entertained under Article 226 of the Constitution of India.

5. Writ Petition stands dismissed. However, the dismissal of this petition will not stand in the way of the writ petitioner from approaching the Debts Recovery Tribunal. No costs. Consequently, connected W.M.P.(MD) Nos. 4437 & 4438 of 2020 are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssm/15

To

The Chief Judicial Magistrate,
Karur,
Karur District.

W.P (MD)No.5481 of 2022
29.03.2022

AC (CO)
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