



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:13.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P(MD)No.11417 of 2022

S.Vani Chandra

...Petitioner

Vs.

1.The Sub Registrar,
O/o. the Sub Registrar Office,
Thiruthangal,
Virudhunagar District.

2.The Inspector of Police,
District Crime Branch,
Virudhunagar District,
Virudhunagar.

3.Axis Bank Ltd.,
No.61/4B, Pattu Arcade 1st Floor,
Bye-Pass Road,
Ram Nagar,
Madurai.

...Respondents

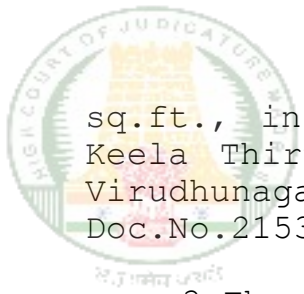
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to allow this petitioner to sell her own house as enable to pay the loan amount owed to the 3rd respondent by considering the petitioner's representation dated 09.05.2022 within the period that may be stipulated by this Court.

For Petitioner	:	Mr.B.Senthil Kumar
For R1 & R2	:	Mr.M.Sakthi Kumar
		Government Advocate (Crl.side)
For R3	:	Mr.Pethurajesh

O R D E R

This Writ Petition is filed for a Mandamus to direct the 2nd respondent to permit the petitioner to sell her house for the purpose of paying the loan amount to the 3rd respondent bank, by considering the representation dated 09.05.2022.

2.The learned counsel appearing for the petitioner submits that the petitioner had purchased the land, measuring an extent of 991.08



sq.ft., in Old S.F.No.1777/5 (New S.No.1777/5A) at Erukkan Nagar, Keela Thiruthangal Village, Sivakasi Taluk, Thiruthangal Sub (D) Virudhunagar, by way of sale deed dated 03.08.2017 bearing Doc.No.2153 of 2017.

3.The petitioner along with her husband, who was working as Auditor in the Nadar Mahajan Sangam, jointly availed a loan from the 3rd respondent bank for the purpose of constructing a house in the aforesaid land and after availing the aforesaid loan, the house was constructed in the said land. Further, on 09.02.2018, the petitioner has executed a memorandum relating to deposit of title deeds and the same was registered before the 1st respondent in Doc.No.624 of 2018.

4.The learned counsel for the petitioner further submits that since the loan amount was not repaid by the petitioner, the respondent bank initiated recovery proceedings as against the petitioner and her husband and issued possession notice under Section 13 (4) of SARFAESI Act on 26.04.2022. Therefore, the petitioner decided to sell her house to settle the loan amount.

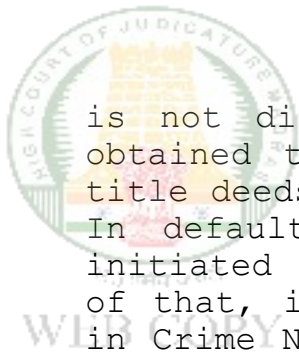
5.At this stage, she came to know that the 2nd respondent/the Inspector of Police, District Crime Branch, Virudhunagar District has already sent a request letter dated 29.04.2021 to the 1st respondent not to make any encumbrance on the petitioner's house property, till the case in Crime No.9 of 2021 is closed, which has been registered as against the petitioner's husband and one another. Hence, the petitioner has filed the present writ petition with the aforesaid relief.

6.The learned Government Advocate (Crl.side) for the respondents 1 and 2 submits that there was an allegation of misappropriation of fund as against the petitioner's husband and others, for which a case in Crime No.9 of 2021 has been registered against them by the respondent police. In this connection, the 2nd respondent has already sent a request letter dated 29.04.2021 to the 1st respondent not to make any encumbrance on the house property, till the case in Crime No.9 of 2021 is closed.

7.The learned counsel for the 3rd respondent submits that the petitioner's property was under mortgage and possession notice has already been issued under Section 13 (4) of SARFAESI Act on 26.04.2022. He would further submit that this writ petition is not maintainable, as the petitioner has to approach the Tribunal concerned for any clearance.

8.I have considered the matter, in the light of the submissions made by the learned counsel on either side.

9.On perusal of records, it is seen that admittedly the petitioner had purchased the property in Old S.F.No.1777/5 (New S.No.1777/5A) at Erukkan Nagar, Keela Thiruthangal Village, Sivakasi Taluk, Thiruthangal Sub (D) Virudhunagar, by way of sale deed dated 03.08.2017. The ownership



is not disputed. Further, the petitioner along with her husband obtained the loan from the 3rd respondent bank by depositing the title deeds and executing a memorandum to this effect on 09.02.2018. In default of repayment of the loan amount, the 3rd respondent initiated recovery proceedings under SARFAESI Act and in pursuance of that, issued possession notice on 26.04.2022. Meanwhile, a case in Crime No.9 of 2021 has been registered against the petitioner's husband and another on the allegation of misappropriation of fund. In pursuance of the aforesaid complaint, the 2nd respondent requesting the 1st respondent by way of a letter dated 29.04.2021 not to make any encumbrance on the disputed property.

10. In the light of the above, I find that the relief sought for in this writ petition is un-sustainable and there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To

1. The Sub Registrar,
O/o. the Sub Registrar Office,
Thiruthangal,
Virudhunagar District.

2. The Inspector of Police,
District Crime Branch,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.P.PETHU RAJ, Advocate (SR-25327[F] dated 13/06/2022)

+1 CC to M/s.B. SENTHIL KUMAR, Advocate (SR-25801[F] dated 15/06/2022)

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