



W.P(MD)No.17004 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.08.2022

CORAM

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

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M/s.KSK Industries Private Limited,
Proprietor, Mr.K.Senthil Kumar,
Chennai-600 118.

... Petitioner

Vs.

1.The Authorized Officer,
Karur Vysya Bank,
Madurai-625 107.

2.The Branch Manager,
Karur Vysya bank, Pudukottai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondent bank to permit the petitioner to remove the Machineries installed in the Factory premises bearing Door No.1/67, comprised in S.Nos.24/4B1 and 275/5 situated in Virachillai Village, Thirumayam Taluk, Pudukottai District within a reasonable time that may be fixed by this Court.

For Petitioner :Mr.K.C.Maniyarasu

For Respondents :Mr.V.Sukumar



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ORDER

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

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondent bank to permit the petitioner to remove the Machineries installed in the Factory premises bearing Door No.1/67, comprised in S.Nos.24/4B1 and 275/5 situated in Virachillai Village, Thirumayam Taluk, Pudukottai District within a reasonable time that may be fixed by this Court.

2.Heard Mr.K.C.Maniyarasu, learned Counsel for the petitioner and Mr.V.Sukumar, learned Counsel, who takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner has availed financial assistance from the respondent bank in connection with its business. The respondent bank issued a notice under Section 13(2) of SARFAESI Act, 2002 on 03.10.2019. Thereafter, the respondent bank issued a notice under Section 13(4) of the Act on 07.03.2020. A sale notice was also issued to the petitioner informing the petitioner that the property



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would be brought on sale through online on 27.11.2020. Again a sale notice was issued on 09.03.2022 fixing e-auction sale on 12.04.2022. Further, the application filed by the respondent bank under Section 14 of SARFAESI Act, before the learned Chief Judicial Magistrate Madurai, was ordered on 16.05.2022. Challenging the same, the above Writ Petition is filed.

4.The grievance of the petitioner is that the respondent bank has physically taken possession of the immovable property, even though substantial properties of the petitioner are left within the premises, which was kept under the control of the respondent bank. It is submitted by the learned Counsel for the respondent Bank that all the movable assets were hypothecated as collateral security.

5.The learned Counsel for the respondent bank produced before this Court a sanction letter dated 30.03.2017 signed by the petitioner. In the sanction letter itself, it is mentioned that the bank has sanctioned loan not only by getting equitable mortgage in respect of the immovable assets, but also by hypothecating movable/current assets both present and future by special



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reference. Since the movable properties were also the subject matter of hypothecation, there cannot be a direction as prayed for.

Therefore, this Writ Petition is dismissed. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
01.08.2022

Index : Yes / No
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and

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