



W.P.(MD)No.19757 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2022

CORAM

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

W.P.(MD)No.19757 of 2022
and
W.M.P.(MD)No.14420 of 2022

V.Palanisamy

... Petitioner

Vs.

1.The Chief Judicial Magistrate,
Thoothukudi.

2.Canara Bank,
(Erstwhile Syndicate Bank),
Through its Authorized Officer,
Mr.K.K.Gopi Kannan,
Tuticorin Beach Road Branch,
H.O.No.40, 55 PB, Beach Road,
Thoothukudi.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records culminated into the order dated 29.07.2022 in CrI.M.P.No.4243 of 2022 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of the Security Interest Act (SARFAESI Act) passed by the first respondent and set aside the same as illegal.

For Petitioner :Mr.P.Manikandan

For R-2 :Mr.R.Pandivel



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WP(MD)No.19757 of 2022

ORDER

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

Challenging the order passed by the learned Chief Judicial Magistrate, Thoothukudi in Crl.M.P.No.4243 of 2022 under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of the Security Interest Act (SARFAESI Act), the present Writ Petition is filed.

2.Heard Mr.P.Manikandan, learned Counsel for the petitioner and Mr.R.Pandivel, learned Counsel, who takes notice on behalf of the second respondents. By consent of both parties, the present Writ Petition is taken up for final disposal at admission stage.

3.The learned Counsel for the respondent bank submits that the subject property was brought on sale earlier and the petitioner did not challenge the same. Further, recently, pursuant to the second sale, a third party has purchased the property and the sale was also confirmed in favour of the said purchaser. Stating that the sale certificate itself was issued to the purchaser, the learned Counsel for the respondent bank questioned the maintainability of the Writ Petition after the sale and the creation of vested interest in favour of third party.



WP(MD)No.19757 of 2022

WEB COPY

4.The petitioner has not impleaded the auction purchaser.

Unless the petitioner challenges the sale on the ground of any irregularity, it may not be possible to establish any legal injury by merely questioning the order of learned Chief Judicial Magistrate directing physical possession of the property to be handed over to the respondent bank. In the said circumstances, this Court is of the view that the Writ Petition cannot be sustained. Hence, this Writ Petition is dismissed giving liberty to the petitioner to challenge sale notice or auction on any irregularity after impleading the auction purchaser. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
25.08.2022

Index : Yes / No

cmr

To

The Chief Judicial Magistrate,
Thoothukudi.



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W.P.(MD)No.19757 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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W.P(MD)No.19757 of 2022

25.08.2022