



WP(MD)No.19800 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.19800 of 2022

and

W.M.P.(MD)No.14442 and 14443 of 2022

Thilagavathy

... Petitioner

Vs.

1.The Chief Judicial Magistrate,
Dindigul.

2.The Authorized Officer,
Canara Bank,
Vadamadurai Branch,
Vadamadurai-624 802,
Dindigul District.

3.The Branch Manager,
Canara Bank,
Vadamadurai Branch,
Vadamadurai -624 802,
Dindigul District.

4.Chandrasekar
5.B.Mala

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed in Crl.M.P.No.0005673 of 2022



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dated 29.07.2022 based on the application filed by the second respondent bank under Section 14 of SARFASI Act, 2002 and quash the same as illegal and consequently direct the second and third respondents to follow the process of law in evicting the petitioner from the property rented out by the fourth respondent herein situated at S.No.1461/3 (new S.No.1461/3A1, 1461/3B) having door No.8/5/151 Railway Station Road, Vadamadurai-624 802.

For Petitioners : Mr.K.K.Samy
For R2 and R3 : Mr.P.Pethu Rajesh
Standing Counsel

ORDER

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

Stating that no notice was issued to the tenant/petitioner herein before passing the order in CrI.M.P.No.0005673/2022 dated 29.07.2022 by the learned Chief Judicial Magistrate, Dindigul, the present writ petition is filed for a direction to the second and third respondents to follow due process of law in evicting the petitioner from the property rented out by the fourth respondent.

2. The Petitioner claims to be a tenant under the fourth respondent and to establish the same, the petitioner has produced a copy



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of a lease deed, dated 23.06.2020 entered into between the petitioner and the third and fourth respondents before this Court.

3. However, the learned Standing Counsel for the respondent bank seriously disputed the genuineness of the agreement, dated 23.06.2020. It is seen that the borrowers had executed an unregistered lease deed in favour of the petitioner, who is stated to be the sister of the borrower/fourth respondent. Apart from the said document, no document is produced before this Court to show that the petitioner is running a hotel for more than five years in the premises of the borrowers, which is mortgaged to the respondent bank.

4. Though the learned counsel for the petitioner relied upon the order of this Court in W.P.(MD)No.11240 of 2022, dated 08.07.2022, this Court is unable to apply the principles laid down by this Court in the said judgment to the present case. The case dealt with by us is in respect of a tenant, whose independent tenancy long prior to the mortgage was admitted by the respondent bank. In the present case, the *bona fide* of the petitioner's claim is very much an issue and hence, this Court is not inclined to entertain this writ petition. However, it is open to the petitioner to challenge the order passed by the learned Chief Judicial Magistrate before the Debt Recovery Tribunal and establish her right as



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it is recognized under Section 17 (4-A) of the SARFAESI Act.

Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

Index : Yes / No

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