



W.P.(MD)No.20968 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2022

CORAM

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

W.P(MD)No.20968 of 2022

and

W.M.P.(MD)Nos.15216 and 15218 of 2022

R.Gnanasundaram

... Petitioner

Vs.

1.The District Collector cum District Magistrate,
Trichy District,
Trichy.

2.The Authorised Officer,
Union Bank of India,
Cantonment Branch,
No.26, Warner's Road,
Cantonment,
Trichy – 620 001.

3.The Union Bank of India (E-Andhra Bank),
Cantonment Branch,
No.26, Warner's Road,
Cantonment,
Trichy – 620 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for records pertaining to the impugned order passed by the learned CJM, Tiruchirapalli in Cr.M.P.No.817 of 2022, dated 04.03.2022 and quash the same and



W.P.(MD)No.20968 of 2022

consequently direct the 3rd respondent to remove the lock and seal from the Petitioner's property situated in Tiruchirapalli Registration District, Manachanallur Sub-Registration, Manachanallur Taluk, No. 29/1, S.Kannanur (West) Village, S.No.273/11, Patta No.1306 in plot No.2756 sq.ft.

For Petitioner : Mr.A.Azhagesan

For 1st Respondent : Mr.J.Ashok,
Additional Government Advocate

For Respondents 2 & 3 : Mr.R.Pandivel,
Standing Counsel

* * *

ORDER

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

Challenging the order of learned Chief Judicial Magistrate, Tiruchirapalli, dated 04.03.2022, in the application filed by the second respondent under Section 14 of SARFAESI Act, in Cr.M.P.No.817 of 2022, the above Writ Petition is filed.

2. Heard Mr.A.Azhageson, learned counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader, who accepts notice on behalf of the first respondent and Mr.R.Pandivel, learned Standing Counsel for the respondents 2 & 3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



W.P.(MD)No.20968 of 2022

3. It is not in dispute that the petitioner has earlier challenged the sale notice in W.P.(MD) No.10153 of 2022 and obtained an order of interim stay and the matter is pending before this Court. Pursuant to the directions of this Court in the said writ petition, the petitioner is said to have paid Rs.40 Lakhs to reduce the liability from Rs.90 Lakhs.

4. Learned counsel for the petitioner would submit that the sale itself was challenged before this Court without impleading the purchaser. In this writ petition the petitioner challenges the order of learned Chief Judicial Magistrate in an application filed under Section 14 of the SARFAESI Act, where the purchaser is not a party.

5. This Court is unable to appreciate the said submission of learned counsel for the petitioner. When it is admitted that the sale has taken place and the sale has been confirmed, the purchaser has vested interest in the property. Without impleading the purchaser, there cannot be any adjudication as the bank has already conveyed whatever right they have in the secured asset to the purchaser. The right of equity of redemption available to the



W.P.(MD)No.20968 of 2022

mortgagor is lost once the property is sold. To challenge any proceedings, pursuant to sale, the purchaser is a necessary party and without impleading the purchaser there cannot be any order or adjudication of any issue. Even the petitioner cannot enter into a compromise with the bank without the purchaser. In the said circumstances, this Court is unable to entertain the writ petition.

6. Accordingly, the Writ Petition is dismissed for non-joinder of necessary party. The petitioner is given liberty to challenge the sale or the proceedings of the Chief Judicial Magistrate after adding necessary parties. No costs. Consequently, connected miscellaneous petitions are also dismissed.

[S.S.S.R., J.] [S.S.Y., J.]
02.09.2022

Index : Yes / No
sj

To

1.The District Collector cum District Magistrate,
Trichy District,
Trichy.

2.The Chief Judicial Magistrate,
Tiruchirappalli.



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W.P.(MD)No.20968 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

W.P(MD)No.20968 of 2022

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