



W.P.(MD) No.24184 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.24184 of 2022
and
W.M.P.(MD) No.18300 of 2022

H.Shajahan

... Petitioner

-VS-

The Authorised Officer
The Karur Vysya Bank Ltd.,
No.47, Court Road
Nagercoil

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records of the impugned order passed by the learned Chief Judicial Magistrate, Kanniyakumari, in Cr.M.P.No.8007 of 2022, dated 26.08.2022, quash the same as illegal.

For Petitioner : Mr.Abul Kalam Azad.A.S.

For Respondent : Mr.R.Pandivel, Standing Counsel



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ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenge in this writ petition is to the order dated 26.08.2022, passed in Cr.M.P.No.8007 of 2022, by the learned Chief Judicial Magistrate, Kanniyakumari District at Nagercoil.

2. Learned counsel for the petitioner submitted that one of the secured assets has been released from mortgage on payment of Rs.1,10,00,000/-, however, even after releasing from the mortgage, the respondent – Bank has intentionally affixed a notice in the property, which is already released from the mortgage and published it in the website also. Further, in the impugned order, there is no description of property of which possession was directed to be taken over. Therefore, on these grounds the impugned order is liable to be quashed.

3. Learned Standing Counsel appearing for the respondent – Bank has not refuted the above submissions of the learned counsel for the petitioner and he fairly admitted that there is no description of property in the impugned order.



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4. Taking into consideration the above submissions, we are *prima facie* satisfied that the impugned order is liable to be set aside.

5. Accordingly, the writ petition is allowed and the order dated 26.08.2022, passed in Cr.M.P.No.8007 of 2022, by the learned Chief Judicial Magistrate, Kanniyakumari, Kanniyakumari District at Nagercoil, is set aside and the matter is remanded back to the learned Chief Judicial Magistrate, for consideration. The learned Chief Judicial Magistrate, Kanniyakumari District at Nagercoil, is directed to consider the matter afresh and pass appropriate orders, on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order, by incorporating the description of property. We make it clear that the impugned order is quashed only on account of non-inclusion of the description of property alone. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.]

[R.V., J.]

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Index : Yes / No

Internet : Yes / No

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To:
The Chief Judicial Magistrate,
Kanniyakumari.



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