



W.P.(MD) No.24707 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD) No.24707 of 2022
and
W.M.P.(MD) No.18805 of 2022

I.Jerina

... Petitioner

-VS-

1.The Authorized Officer
Canara Bank
Sivakasi II Branch
Virudhunagar District

2.Kanagamoorthy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the order dated 11.10.2022, passed by the learned Chief Judicial Magistrate, Virudhunagar District, in CrI.M.P.No.3830 of 2022, and quash the same as arbitrary, illegal and violation of the provisions of SARFAESI Act.

For Petitioner : Mr.M.Murali

For Respondents : Mr.C.Deepak
Standing Counsel for R1



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W.P.(MD) No.24707 of 2022

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

Mr.C.Deepak, learned Standing Counsel, takes notice for the first respondent.

2. Since the writ petition is disposed of at the admission stage itself and in view of the nature of the order proposed to be passed, notice to the second respondent is dispensed with.

3. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. Challenging the order dated 11.10.2022, passed by the learned Chief Judicial Magistrate, Virudhunagar District, in CrI.M.P.No.3830 of 2022, ordering to take possession of the secured asset, the petitioner has filed this writ petition.

5. The learned Standing Counsel appearing for the respondent – Bank submitted that the second respondent and his wife Shanti are the



W.P.(MD) No.24707 of 2022

WEB COPY borrowers and the petitioner is a tenant of the secured asset. Since the borrowers committed default in making payment of the loan amount, the respondent – Bank initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, brought the secured asset for auction, wherein, it has been sold to the auction purchaser Kala and a sale certificate has also been issued to her way back on 21.10.2021, which is yet to be registered.

6. Further, the learned Standing Counsel appearing for the respondent – Bank submitted that the petitioner's son gave a representation to the respondent – Bank on 21.10.2022 requesting not to proceed further for one week as they would vacate and hand over the vacant possession of the secured asset by 28.10.2022. Despite the same, till date, the petitioner has not vacated and handed over the vacant possession of the secured asset to the respondent – Bank.

7. By way of reply, the learned counsel for the petitioner submitted that the petitioner is ready to vacate and hand over the vacant possession of the secured asset to the respondent, within four weeks from today.



WEB COPY

W.P.(MD) No.24707 of 2022

8. The learned Standing Counsel for the respondent – Bank has no objection for granting four weeks time to the petitioner to vacate and hand over the vacant possession of the secured asset.

9. In view of the above submissions, the petitioner is directed to vacate and hand over the vacant possession of the secured asset to the respondent – Bank on or before 29.11.2022. Till such time, no coercive steps shall be taken by the respondent – Bank. If the petitioner fails to comply with the said direction, it is open to the respondent – Bank to proceed further in accordance with law.

10. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
01.11.2022
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Index : Yes / No
Internet : Yes / No

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To:
The Chief Judicial Magistrate,
Virudhunagar District.



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W.P.(MD) No.24707 of 2022

R.MAHADEVAN, J.
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