



W.P.(MD) No.25855 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.25855 of 2022

S.Bindhu

... Petitioner

-Vs-

The Authorised Officer,
Manappuram Home Finance Ltd.,
No.43, Kannadasan Main Street,
Madurai – 625 010.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to restore the possession in the property in New Re-Survey No.472/1A, Plot No.12, Sowbagya Nagar, Tirunagar, Madurai, residence with the petitioner with immediate effect, based on the petitioner's representation dated 10.10.2022.

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For Petitioner : Mr.T.Ramasamy

For Respondent : No appearance

ORDER

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

The prayer sought for in the Writ Petition is to direct the respondent to restore the possession of the petitioner in respect of the property in New Re-Survey No.472/1A, Plot No.12, Sowbagya Nagar, Tirunagar, Madurai, with immediate effect, based on the petitioner's representation dated 10.10.2022.

2.According to the petitioner, she availed home loan for a sum of Rs.40 lakhs from the respondent Bank by mortgaging the property in question. Since the petitioner was not able to repay the said amount, the respondent Bank initiated SARFAESI proceedings against the petitioner for recovery of the loan amount and filed an application in Cr.M.P.No.345 of 2020 under Section 14 of SARFAESI Act before the learned Chief Judicial Magistrate, Madurai, for taking possession of the property and the same was allowed. Thereafter, the property of the petitioner is lock and seal with all household articles by the respondent

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3.The learned counsel for the petitioner submitted that the said action of the respondent Bank by interfering with the possession of the petitioner without giving any opportunity to her, is illegal. Therefore, the petitioner is entitled for the aforesaid relief.

4.Considering the facts and circumstances of the case, we are of the view that since the petitioner is having a remedy to challenge the said action taken by the respondent Bank before the appropriate forum, namely, Debts Recovery Tribunal, without availing such remedy, the petitioner has filed this Writ Petition. Therefore, this Writ Petition is not maintainable, accordingly, this Writ Petition stands dismissed. No costs.

[D.K.K., J.] & [R.V., J.]

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Index : Yes / No

Internet : Yes / No

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