



W.P.(MD)No.26417 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2022

CORAM

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

W.P(MD)No.26417 of 2022
and
W.M.P.(MD)No.20602 of 2022

S.Durgadevi

... Petitioner

Vs.

1.The Administrative Head/Officer/Customer Care Unit,
Equitas Small Finance Bank Ltd.,
4th Floor, Phase – II, Spencer Plaza,
No.769, Anna Salai,
Chennai – 600 002.

2.The Branch Manager,
Equitas Small Finance Bank Ltd.,
2nd Floor, "Sree Naga Arcade",
No.5, Williams Road,
Near Seva Sangam School, (Upstairs of Indian Bank),
Cantonment, Trichy – 620 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Impugned Attachment of possession Order passed by the learned Chief Judicial Magistrate, Pudukkottai in Cr.M.P.No.911 of 2022 dated 20.10.2022 and quash the same and consequently direct the respondents to hand over the possession of the petitioner's property in Pathipatti Village to the extent of 1090 sq. feets, at Door No.303, Survey Number 6/47 at Pathipatti Village.



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For Petitioner : Mr.S.Karthikeyan

For Respondents : Mr.R.M.Ajay Parthiban
Standing Counsel

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ORDER

(Order of the Court was made by **R.MAHADEVAN, J.**)

The petitioner has come forward with this writ petition, challenging the Attachment of Possession Order passed by the learned Chief Judicial Magistrate, Pudukkottai, in Cr.M.P.No.911 of 2022, dated 20.10.2022, and consequently, for a direction to the respondents to hand over her the possession of her property, measuring an extent of 1090 sq. feet, at Door No.303, Survey Number 6/47 at Pathipatti Village.

2. Heard Mr.S.Karthikeyan, learned counsel for the petitioner and Mr.R.M.Ajay Parthiban, learned Standing Counsel, who accepts notice on behalf of the respondents. By consent of both sides, this Writ Petition is taken up for final disposal at the time of admission itself.

3. According to the petitioner, she had paid the EMIs for 10 months and after that due to COVID – 19 pandemic, her business got affected as a result she could not pay the EMIs. In the meanwhile, the 2nd respondent has topped up her loan to R.7,60,000/- without her knowledge and deducted Rs.40,000/- for documentation charges,



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Rs.40,000/- for Insurance, apart from deducting amount towards pending dues with exorbitant interest. Hence, the petitioner lodged a complaint to the police to take action against the 2nd respondent. Further, the petitioner has filed a writ petition before this Court in W.P.(MD) No.2231 of 2022, challenging the action of the 2nd respondent and also filed a petition before the Consumer Court, Pudukottai, against the respondents for compensation in C.C.No.111 of 2022 and the same are pending. Suppressing the said facts, the 2nd respondent filed Cr.M.P.No.911 of 2022, on the file of learned Chief Judicial Magistrate, Pudukkottai, under Section 13(4) of the SARFAESI Act, 2002 and obtained an order dated 20.10.2022. Hence, the Writ Petition.

4. Learned Standing Counsel appearing for the respondents stoutly denied the above said allegations made by the petitioner.

5. Since disputed question of facts are involved in this matter, against the order passed under Section 13(4) of the Act, the petitioner has an expeditious and effective remedy under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, which provides for an appeal to the Debts Recovery Tribunal.



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6. In view of the above, this Writ Petition stands disposed of granting liberty to the petitioner to approach the Debts Recovery Tribunal against the impugned order. It is also open to the petitioner to approach the the respondent bank for any other reliefs. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
23.11.2022

Internet : Yes / No
Index : Yes / No
sj



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