



W.P.(MD) No.28136 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.28136 of 2022

and

W.M.P.(MD)No.22212 of 2022

D.S.Manohar

... Petitioner

-Vs-

1.The District Registrar,
Office of the District Registrar,
Dindigul District.

2.The Sub-Registrar,
Office of the Sub Registrar,
Batlagundu, Dindigul District.

3.Canara Bank,
Batlakundu Branch,

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WEB COM (Through its Authorized Officer L.Sundaramoorthy),

RC Church Compound, Madurai Dindigul Road,
Batlagundu, Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records connected with the impugned order in Cr.M.P.No.14162/2022, dated 08.11.2022 on the file of the learned Chief Judicial Magistrate, Dindigul and quash the same as illegal.

For Petitioner : Mr.C.Ezhilarasu

For R1 and R2 : Mr.R.Baskaran,
Additional Advocate General,
assisted by Mr.S.Shanmugavel,
Additional Government Pleader

For R3 : Mr.P.Pethu Rajesh,
Standing Counsel

ORDER

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

The order of the learned Chief Judicial Magistrate, Dindigul, dated 08.11.2022 made in Cr.M.P.No.14162/2022, is under challenge in this Writ Petition.

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2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Admittedly, possession notice was issued under Section 13(4) of SARFAESI Act, dated 25.01.2018, calling upon the petitioner to pay the outstanding amount and the same was received by the petitioner. However, he has not challenged the same before the Debts Recovery Tribunal. Hence, the respondent Bank filed an application under Section 14 of SARFAESI Act before the learned Chief Judicial Magistrate, Dindigul, wherein an order dated 08.11.2022, came to be passed by appointing an Advocate Commissioner for taking possession of the petitioner and handover the same to the respondent Bank. Thereafter, the petitioner has filed this Writ Petition. Since the petitioner is having a remedy of appeal against the possession notice before the Debts Recovery Tribunal, without availing such remedy, he has filed this Writ Petition. Hence, this Writ Petition is not maintainable. Therefore, this Writ Petition stands dismissed with liberty to the petitioner to workout his remedy before the

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appropriate forum. 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

1.The District Registrar,
Office of the District Registrar,
Dindigul District.

2.The Sub-Registrar,
Office of the Sub Registrar,
Batlagundu, Dindigul District.



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