



W.P.No.1898 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.1898 of 2023

M.Chella

..

Petitioner

Vs.

1. The Special Judge/  
Chief Judicial Magistrate  
Chengalpattu  
Chengalpattu District.

2. The Authorised Officer  
M/s. Chola mandalam Investment &  
Finance Company Limited  
DARE House, 1st Floor  
No.2, NSC Bose Road, Parrys  
Chennai 600 001.

3. Senthil Kumaran

4. Valarmathi

..

Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India  
praying for a writ of Certiorarified Mandamus calling for the records

Page 1 of 4



W.P.No.1898 of 2023

WEB COPY

relating to the order passed by the first respondent in CMP No.5840 of 2022 dated 21.07.2022, quash the same as illegal and consequently, direct the second respondent not to take any coercive steps till the disposal of the suit in O.S.No.491 of 2021 on the file of the District Munsif Court at Alandur.

For the Petitioner : Mr.R.Rajesh Vivekandhan

ORDER

(Made by the Hon'ble Acting Chief Justice)

The writ petition has been filed challenging the order of the first respondent ordering the application of the second respondent seeking physical possession of the property.

2. The petitioner is the lease holder of the property in question. The respondents 3 and 4 are the landlords. It appears that the respondents 3 and 4 have availed loan from the second respondent and had also repaid the same. However, the second respondent has declared their accounts as NPA and consequently, has obtained the impugned order for taking physical possession of the property. Hence, the above writ petition.



W.P.No.1898 of 2023

WEB COPY

3. Admittedly, the petitioner has a remedy of appeal under Section 17 of the SARFAESI Act, 2002. But, the petitioner, without availing the remedy of appeal by approaching the Debts Recovery Tribunal, has invoked Article 226 of the Constitution of India. Hence, this writ petition is dismissed with liberty to the petitioner to approach the Debts Recovery Tribunal. Consequently, WMP Nos.2000 and 2001 of 2023 are also dismissed.

(T.R., ACJ.) (D.B.C., J.)  
25.01.2023

Index : Yes/No  
Neutral Citation : Yes/No

kpl

To

1. The Special Judge/  
Chief Judicial Magistrate  
Chengalpattu  
Chengalpattu District.
2. The Authorised Officer  
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W.P.No.1898 of 2023

T.RAJA, ACJ,  
and  
D.BHARATHA CHAKRAVARTHY,J

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W.P.No.1898 of 2023

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