



WEB COPY



WP No.25645 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

WP No.25645 of 2023

R.Kishan

: Petitioner

versus

1.The Authorised Officer,
ICICI Bank Ltd.,
DSMG-Mortgages,
2nd Floor, West Wing,
Plot No.24, South Phase,
Industrial Estate,
Ambattur, Chennai 58

2.S.S.R.Rajendra Kumar

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the first respondent from in any manner evicting the petitioner from property at No.3/2, H.D.Raja Street, Eldams Road, Teynampet, Chennai 18 by enforcing the order of Chief Metropolitan Magistrate, Egmore, in Crl.M.P.No.2778 dated 05.05.2022 without considering their request contained in letters dated 27.08.2023 and 28.02.2023 for handing over possession by 31.01.2024.

For the Petitioner : Mr.S.Ramesh

For Respondent No.1 : Mr.M.Ajmal Azzath



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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.S.Ramesh, learned counsel for the petitioner and Mr.M.Ajmal Azzath for the first respondent.

2. The petitioner claims to be a tenant. Action is resorted to by the bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner seeks protection of possession. According to the learned counsel for the petitioner, the petitioner would undertake to vacate the premises by 31.01.2024.

3. Learned counsel for the bank submits that twice attempts were made to take over possession but the same were thwarted by the petitioner.

4. We would not enter into the said aspect. As it is claimed that the petitioner is in possession of the property, we pass the following order:



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(i) The respondent bank may not proceed to execute the order under Section 14 of the Act of 2002 till 02.10.2023;

(ii) The petitioner shall vacate the said premises on or before 02.10.2023;

(iii) In case the petitioner fails to vacate the premises on or before 02.10.2023, the bank is entitled to take the police help for seeking possession; and

(iv) The petitioner shall, during this period, not create any third party interest nor induct any third party in possession.

5. The Writ Petition is disposed of. There will be no order as to costs. Consequently, WMP No.25054 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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