



WP No.30180 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM

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

AND

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

WP No.30180 of 2022

K.Murugan

... Petitioner

-VS-

1. M/s IDFC First Bank Ltd.,
(Earlier known as M/s Capital First Limited),
A Company incorporated under the provisions
of Companies Act, 1956 and having its Regd.
Office at M/s IDFC First Bank Ltd.,
India Bulls Centre, Tower 2A & 2B, 10th Floor,
Senathipathi Bapat Marg, Lower Parel(W),
Mumbai 400 013 and
Branch Office at Amarasari Building,
3rd Floor, No.455, Anna Salai, Teynampet,
Chennai-600 018 Rep by its
Authorised Officer Mr.J.Neethiraja

2. M/s Mahalakshmi Communication
Rep by its Partners:
(i) Mr.P.Kanniappan
(ii)L.Purushothaman

3) K.Saravanan

... Respondents



WP No.30180 of 2022

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring that the order passed by the Hon'ble Chief Metropolitan Magistrate Court, Egmore in Crl.M.P.No.12452/2020 invoking Section 14 of SARFAESI Act based on the affidavit of bank is not maintainable and consequently extension of warrant order dated 29.9.21 and 9.3.22 given to the Advocate Commissioner beyond the statutory period contemplated under the Act is ultravires, the action taken by the 3rd respondent against the petitioner is beyond the scope of the warrant given to the Advocate Commissioner by the Hon'ble Chief Metropolitan Magistrate Court, Egmore consequently direct the bank 1st respondent to de-seal the lock and allow the petitioner to remove the house hold articles belongs to the petitioner's family within a date fixed by this Court.

For the Petitioner : Mr.A.Nixon

For the Respondents : Mr.S.K.Mariyappan
For R-1
R-2 - Not ready in notice
R-3 - No appearance

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.A.R.Nixon, learned counsel for the petitioner and Mr.S.K.Mariyappan, learned counsel for respondent No.1.



WP No.30180 of 2022

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2. On 04.08.2023, we had recorded the statement of the learned counsel for the first respondent/bank that the bank is ready to handover the items as per the inventory.

3. The learned counsel for the petitioner submits that some items had been delivered to the petitioner. However, five items are not delivered to the petitioner as per the inventory list, i.e., (1) Gas Stove and Cylinder, (2) Fridge, (3) System, (4) Tailor Machine and (5) Table Fan.

4. In a writ jurisdiction, it will not be possible for us to dilate the said aspect. In case, according to the petitioner, some of the items are not delivered, it is for the petitioner to take appropriate steps before the appropriate forum as may be permissible under law. In case, the petitioner seeks to challenge the order under section 14 of the SARFAESI Act, the petitioner is at liberty to assail the same before the Debts Recovery Tribunal as may be permissible in law. It is for the petitioner to plead the benefit of Section 14 of the Limitation Act and for the Debts Recovery Tribunal to consider the same on its own merits.



WP No.30180 of 2022

WEB COPY

The writ petition is, accordingly, disposed of. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

17.08.2023

Index : Yes/No
Neutral Citation : Yes/No
sra



WEB COPY



WP No.30180 of 2022

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

(sra)

WP No.30180 of 2022

17.08.2023