



W.P.(MD) No.1073 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.1073 of 2023
and W.M.P.(MD)No.1003 of 2023

T.Suseela Devi

Vs.

... Petitioner

1.The Managing Director cum
Chief Executive Officer,
Catholic Syrian Bank Ltd.,
CSB Bhavan, P.B.No.502,
St. Mary's College Road,
Thrissur – 680 020, Kerala State.

2.The Authorised Officer,
CSB Bank Ltd.,
Formerly Catholic Syrian Bank,
Asset Recovery Branch,
2nd Floor, Shiva Complex,
No.54, Old Post Office Road,
Coimbatore – 641 018.



W.P.(MD) No.1073 of 2023

WEB COPY

3. The Branch Manager,
Catholic Syrian Bank Ltd.,
Near Perumal Koil,
Perumal Koil Street,
Thoothukudi – 628 002,
Thoothukudi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to restore the non-mortgaged property of the petitioner situated at Door No.2A3, 1st Floor, 6th Street, Krishnarajapuram, Thoothukudi - 628 002 to an extent of 2000 sq.ft. with the petitioner, based on the petitioner's representation dated 05.01.2023, within the stipulated period by this Hon'ble Court.

For Petitioner : Mr.H.Velavadhas
For Respondents : Mr.R.Pandivel,
Standing Counsel

ORDER

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

This Writ Petition has been filed for the issuance of a Writ of Mandamus, directing the respondents to restore the non-mortgaged property of the petitioner situated at Door No.2A3, 1st Floor, 6th Street, Krishnarajapuram, Thoothukudi -



W.P.(MD) No.1073 of 2023

628 002 to an extent of 2000 sq.ft. with the petitioner, based on the petitioner's representation dated 05.01.2023, within a time frame.

2. By consent, this Writ Petition is taken up for final disposal at that admission stage itself.

3. The learned counsel appearing for the petitioner submitted that the respondents bank has filed an appeal before the Debts Recovery Tribunal, Madurai, in which, the petitioner was set ex-parte. He further submitted that the respondents bank has no authority to initiate SARFAESI proceedings against the petitioner and hence, the petitioner has filed this Writ Petition with the aforesaid prayer.

4. The learned counsel appearing for the respondents – Bank submitted that the respondent has filed an appeal before the Debts Recovery Tribunal, Madurai for recovery of money as against the petitioner and an ex-parte order was passed in the said appeal. Subsequently, the respondents bank has initiated



W.P.(MD) No.1073 of 2023

proceedings under the SARFAESI Act and take possession of the subject property in question. He further submitted that the petitioner without challenging the said ex-parte order, now filed this Writ Petition with the aforesaid prayer. Therefore, this Writ Petition is liable to be dismissed and the petitioner can seek his remedy before the Debts Recovery Tribunal, Madurai.

5. We have heard the learned counsel appearing on either side and perused the materials available on record.

6. On a perusal of the records, it is seen that the respondents bank has filed an appeal before the Debts Recovery Tribunal, Madurai and an ex-parte order was passed in the said appeal. According to the learned counsel for the respondents bank, the subject property has already been mortgaged by the petitioner and therefore, the relief as sought for by the petitioner cannot be granted. The learned counsel for the petitioner disputed the said fact. This Court will not go into the disputed facts and hence, we are not inclined to entertain this Writ Petition.



W.P.(MD) No.1073 of 2023

WEB COPY

7. Accordingly, this Writ Petition is dismissed, granting liberty to the petitioner to work out his remedy before the Debts Recovery Tribunal, Madurai, if he so advised. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

20.01.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

vsm



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