



W.P.(MD) No.1072 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.1072 of 2023

and

W.M.P.(MD)No.1001 of 2023

M.Shaik Mohammed

... Petitioner

Vs.

1.The Branch Manager,
ICICI Bank Ltd.,
Nagercoil Branch,
Kottar, Nagercoil,
Kanyakumari District.

2.The Authorized Officer,
ICICI Bank Ltd.,
Arihant Insight, Plot No.24,
Block No.1, Ambattur Industrial Estate,
Chennai – 600 005.

3.R.Chandrakala

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4.R.Jharson Ruben

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Writ of Mandamus, forbearing the respondents from dispossessing locking or sealing the shops of the petitioner in Chandrakala Towers in R.S.No. 605/19, Kattadurai Panchayat, Viyanoor A Village, Kannanur Town, Kalkulam Taluk, Kanyakumari District and consequently direct the respondents to permit the petitioners to occupy the said premises by receiving the rents directly till the sale of the petition mentioned property by the respondent.

For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.J.Alaguram Jothi,
Standing counsel for R1 & R2

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Mandamus, forbearing the respondents from dispossessing locking or sealing the shops of the petitioner in Chandrakala Towers in R.S.No. 605/19, Kattadurai Panchayat,



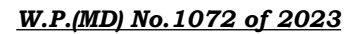
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Viyanoor A Village, Kannanur Town, Kalkulam Taluk, Kanyakumari District and consequently direct the respondents to permit the petitioners to occupy the said premises by receiving the rents directly till the sale of the petition mentioned property by the respondents.

2. Mr.J.Alaguram Jothi, learned Standing Counsel takes notice for respondents 1 and 2. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the respondents 3 and 4 is dispensed with.

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

4. The learned counsel appearing for the petitioner has relied upon the order passed by this Court in W.P.(MD)No.952 of 2023, dated 12.01.2023 and submitted that the petitioner is also tenant under the borrower and the respondents bank are now taking steps to take physical possession of the property. He further submitted that this Court may permit the petitioner to



5. The learned Standing Counsel appearing for the respondents bank submitted that in the earlier order, this Court has stated that this order cannot be taken as a precedent in other matters and it is applicable only for the petitioners alone and therefore, the relief sought for by the petitioner cannot be granted and the writ petition is liable to be dismissed.

6. In reply, the learned counsel for the petitioner submitted that the petitioner has filed this Writ Petition on 12.01.2023 and on the same day, the said order has been passed and therefore, no prejudice would be caused to the respondents bank, if time is granted to the petitioner till 14.02.2023 for delivering possession of the property and hence, he prays for appropriate orders.



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7. Considering the submissions made by both sides, we are granting time to the petitioner till 14.02.2023 for delivering the possession of the property and hand over the key to the respondents bank, failing which, the respondents Bank shall proceed with the direction issued in CrI.M.P.No.6333 of 2021, dated 18.03.2022, by the learned Chief Judicial Magistrate, Kanyakumari. Till such time, the respondents Bank shall not take any coercive steps against the petitioner. We make it clear that the petitioner has filed this Writ Petition on 12.01.2023 and hence, we are inclined to grant time to the petitioner. Therefore, this order cannot be taken as a precedent in other matters.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

20.01.2023

NCC : Yes / No
Index : Yes / No
vsm

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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

vsm

To

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