



W.P.(MD) Nos.1545 & 14896 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) Nos.1545 & 14896 of 2023
and
W.M.P.(MD) Nos.1414, 12567 & 12569 of 2023**

W.P.(MD) No.1545 of 2023:

S.Lakshmi Narayanan

... Petitioner

-vs-

1.The Authorized Officer
Indian Bank
Thiruvengadam Branch
Thiruvengadam

2.R.Thangamariyappan
[R2 is impleaded *vide* order dated
12.07.2023 passed in W.M.P.(MD)
No.14042 of 2023]

... Respondents



W.P.(MD) Nos.1545 & 14896 of 2023

WEB COURT

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned sale notice of the respondent dated 29.12.2022 issued under SARFAESI Act in respect of the petitioner's property bearing Door No.1184-A, 9/6, Rajiv Nagar 6th Street, Pandavarmangalam, Kovilpatti and quash the entire SARFAESI proceedings and consequently forbearing the respondent in any manner from interfering the petitioner's peaceful possession on the property bearing Door No.1184-A, 9/6, Rajiv Nagar 6th Street, Pandavarmangalam, Kovilpatti.

For Petitioner : Mr.J.Parekh Kumar

For Respondent : Mr.B.Rajesh Saravanan
Standing Counsel for R1
Mr.R.Anand for R2

W.P.(MD) No. 14896 of 2023:

S.Lakshmi Narayanan

... Petitioner

-vs-

1.M/s.Indian Bank
(Erstwhile Allahabad Bank)
rep.by its Chief Manager /
Authorised Officer
A.K.Janardhanan
S/o.Kunjan
Indian Bank, Zonal Office
Tirunelveli

Page 2 of 7



W.P.(MD) Nos.1545 & 14896 of 2023

WEB COPY

2.D.Jeyakumar

3.R.Thangamariyappan

... Respondents

[R3 is impleaded vide order dated
12.07.2023 passed in W.M.P.(MD)
No.14043 of 2023]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order of physical possession dated 23.05.2023 made in CrI.M.P. (MD) No.6877 of 2023, on the file of the Court of the Chief Judicial Magistrate, Thoothukudi, in respect of the petitioner's house property bearing Door No. 1184-A, 9/6, Rajiv Nagar 6th Street, Pandavarmangalam, Kovilpatti and quash the same and consequently forbearing the respondents in any manner from interfering the petitioner's peaceful possession on the property bearing Door No.1184-A, 9/6, Rajiv Nagar, 6th Street, Pandavarmangalam, Kovilpatti.

For Petitioner : Mr.J.Parekh Kumar

For Respondent : Mr.B.Rajesh Saravanan
Standing Counsel for R1
Mr.R.Anand for R3



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W.P.(MD) Nos.1545 & 14896 of 2023

COMMON ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

W.P.(MD) No.1545 of 2023 is filed challenging the sale notice dated 29.12.2022, issued by the respondent – Bank. Whereas, W.P.(MD) No. 14896 of 2022 is filed challenging the order dated 23.05.2023, passed in CrI.M.P.No.6877 of 2023, by the learned Chief Judicial Magistrate, Thoothukudi, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Learned counsel for the petitioner states that since the respondent – Bank was not willing to accept the payment made by the petitioner, this Court, on 07.07.2023, has granted an interim order restraining the respondent – bank from evicting the petitioner from the premises till 12.07.2023, on condition that the petitioner should deposit a sum of Rs. 2,00,000/- (Rupees two lakhs only) before the Registrar Judicial, Madurai Bench of Madras High Court, Madurai, by way of a demand draft in the name of the loan account, on or before 10.07.2023. Pursuant to the said conditional order, the petitioner has handed over a Demand Draft bearing No.849356,



W.P.(MD) Nos.1545 & 14896 of 2023

dated 10.07.2023, drawn on Indian Overseas Bank, Pandavarmangalam-Rajiv Nagar Branch, to the Registrar Judicial, on 10.07.2023.

3. Learned counsel appearing for the respondent – Bank states that auction was held on 31.01.2023 and the sale certificate has also been registered.

4. In these circumstances, this Court is not inclined to keep this matter pending as the petitioner has an effective alternative remedy of approaching the Debts Recovery Tribunal, by way of filing SARFAESI appeal challenging the sale and other consequential proceedings. Unless the petitioner succeeds in the SARFAESI appeal, he may not get any relief as against the auction purchaser.

5. Hence, granting liberty to the petitioner to approach the Debts Recovery Tribunal, by way of filing SARFAESI appeal challenging the sale and other consequential proceedings, the writ petitions are closed. The Registrar Judicial, Madurai Bench of Madras High Court, Madurai, is directed to return the Demand Draft stated to have been handed over to him on 10.07.2023 for a sum of Rs.2,00,000/- to the petitioner after getting due acknowledgment. The



W.P.(MD) Nos.1545 & 14896 of 2023

parties shall maintain *status quo* prevailing as on date, for a period of two weeks from today. The petitioner may plead before the Debts Recovery Tribunal for exclusion of the period during which the present writ petitions were pending before this Court, while computing the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

12.07.2023

(2/2)

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Note to Office:

Mark a copy of this order to the Registrar Judicial, Madurai Bench of Madras High Court, Madurai.

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To:

The Chief Judicial Magistrate,
Thoothukudi.



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W.P.(MD) Nos.1545 & 14896 of 2023

S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

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12569 of 2023

12.07.2023

(2/2)