



W.P.(MD) No.1716 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1716 of 2023
and W.M.P.(MD)Nos.1545 & 1548 of 2023

Sangeethkumar

... Petitioner

Vs.

Authorised Officer,
M/s.Equitas Small Finance Bank Ltd.,
Branch Office,
Usilampatti,
Madurai District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned possession notice issued under Rule 8 (1) of the SARFAESI ACT by the respondent herein dated 15.09.2022 and to quash the same as illegal and unconstitutional and consequently forbearing the respondent from in any way taking physical possession of the petitioner Secured Asses comprised in Natham



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S.No.856/6A and Natham S.No.586/6A with an extent of 1399 sq.ft (schedule A Item - 1 land 1000 sq. ft item II land 399 sq ft. Schedule B item - III land 110 sq.ft way land) situated at Ylumalai Village, Ylumalai Panchayat, Peraiyur Taluk, Madurai District.

For Petitioner : Mr.R.Varatharajan
For Respondent : Mr.R.M.Ajay Parthipan

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned possession notice issued under Rule 8 (1) of the SARFAESI ACT by the respondent herein dated 15.09.2022 and to quash the same as illegal and unconstitutional and consequently forbearing the respondent from in any way taking physical possession of the petitioner Secured Asses comprised in Natham S.No.856/6A and Natham S.No.586/6A with an extent of 1399 sq.ft (schedule A Item - 1 land 1000 sq. ft item II land 399 sq ft. Schedule B item - III land 110 sq.ft way land)



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WEB C situated at Ylumalai Village, Ylumalai Panchayat, Perayyur Taluk, Madurai District.

2. Heard Mr.R.Varatharajan, learned counsel for the petitioner and Mr.R.M.Ajay Parthipan, learned Standing Counsel, who takes notice for the respondent.

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 submitted that the petitioner's father availed a housing loan of Rs.20 lakhs from the respondent bank and he was regularly repaying the said loan amount. He further submitted that the petitioner's father also got insurance for the house loan through ICICI bank and paid the insurance amount. While so, the father of the petitioner died on 14.06.2021, due to ill health. Even though the petitioner is ready and willing to settle the balance amount payable to the bank and the petitioner has also made



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serious attempt to get the details of loan outstanding, the respondent bank did not issue any statement. Per contra, without issuing demand notice, the respondent has issued the impugned possession notice dated 15.09.2022. Hence, the petitioner has filed this Writ Petition.

5. The learned Standing Counsel appearing for the respondent bank submitted that they will withdraw the impugned possession notice dated 15.09.2022 and proceed in accordance with law, after serving notice to the legal heirs of the deceased Masanam, who is the borrower of the bank.

6. Recording the aforesaid submissions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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

30.01.2023

NCC : Yes / No
Index : Yes / No
vsm



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