



W.P.(MD) No.3277 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIYA GOWRI

W.P.(MD)No.3277 of 2023
and W.M.P.(MD)No.3032 of 2023

A.Ramamoorthy

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai District.

3.The Branch Manager,
UCO Bank,
K.K.Nagar Branch,
401, East 9th Street,
K.K.Nagar, Madurai – 625 020.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to not to dispossessing the petitioner from the property situated at plot No.9, Door No.7-A (Old), New No. 13/6, TS No.1680, Baharthyar Street, B.B.Kulam, Madurai Town till the disposal of the SARFAESI appeal in SA.No 171 of 2022 on the file of Debts Recovery Tribunal, Madurai.

For Petitioner : Mr.M.Pitchaimuthu

For Respondents : Mr.P.T.Thiraviyam,
Government Advocate for R1 and R2
Mr.V.S.Karthick for R3

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to not to dispossessing the petitioner from the property situated at plot No.9, Door No.7-A (Old), New No.13/6, TS No.1680, Baharthyar Street, B.B.Kulam, Madurai Town, till the disposal of the SARFAESI appeal in SA.No 171 of 2022 on the file of Debts Recovery Tribunal, Madurai.



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2. The petitioner has availed a loan for a sum of Rs.5,00,000/- from the respondent bank on 21.06.2004 and he has deposited the title deeds in respect of the house property by way of collateral security. The petitioner's son Lenin Kumar and his mother A.Ramayee Ammal had availed a loan of Rs.10,00,000/- from the respondent bank and thereafter his daughter and another one P.Muthammal availed a loan for a sum of Rs.10,00,000/- from the respondent bank by executing necessary documents to that effect. Due to unavoidable circumstances, the petitioner was not able to pay the loan amount and hence, his loan account was declared as NPA. He has given one time settlement of the loan amount and he has deposited a sum of Rs.3,30,000/- and the balance payable amount as per compromise is at Rs.29,70,000/-. Due to financial difficulties, he was not able to pay the entire amount and therefore, the respondent bank issued the sale notice on 13.03.2020 stating that they are going to sell the property through e-mail auction on 02.04.2020. Challenging the said sale notice dated 13.03.2020, the petitioner has filed a Writ Petition before this Court in W.P.



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(MD)No.7731 of 2020. This Court, by order dated 20.07.2020, dismissed the Writ Petition on the ground that there is an alternative remedy available under Section 17 of SARFAESI Act. The petitioner has filed an appeal before the DRT, Madurai in S.A.No.171 of 2022 and the same is pending. While that being so, the 2nd respondent has issued a notice dated 30.12.2022, directing the petitioner to hand over the property to them on 19.01.2023, failing which on 20.01.2023, they would take the physical possession by using police force. Challenging the said order, the petitioner has filed a Writ Petition before this Court in W.P.(MD)No.1261 of 2023. This Court, by order dated 24.01.2023, disposed of the Writ Petition with a direction to the DRT, Madurai to dispose of the appeal in S.A.No.171 of 2022, within 6 months. Challenging the order of the second respondent, the petitioner has also filed a separate appeal in S.A.SR.No. 290 of 2023 and both case are tagged and posted for hearing in the month of March, 2023. Since the 2nd respondent is taking steps to dispossess the petitioner from the property in question, he has filed the present Writ Petition for the aforesaid prayer.



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3. The learned Government Advocate appearing for the respondents 1 and 2 submitted that as per the direction of the District Collector, the second respondent has issued a notice dated 30.12.2022.

4. We have heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.

5. On a perusal of the records, it is seen that challenging the sale notice issued by the respondent bank on 13.03.2020, the petitioner has filed an appeal in S.A.No.171 of 2022 and the same is pending before the DRT, Madurai. Further, as against the order of the 2nd respondent dated 30.12.2022, the petitioner has also filed a separate appeal in S.A.SR.No.290 of 2023 and both the cases are tagged together and posted for hearing in the month of March, 2023. Therefore, we are of the view that the prayer of the petitioner is not maintainable and the same is liable to be rejected.



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6. Accordingly, this Writ Petition is dismissed. It is open to the petitioner to work out his remedy in the pending S.A.No.171 of 2022 and S.A.SR.No.290 of 2023 before the DRT, Madurai. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [L.V.G., J.]

20.02.2023

NCC : Yes / No
Index : Yes / No
vsm

To

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai District.



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