



W.P.(MD) No.3360 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.3360 of 2023
and W.M.P.(MD)Nos.3113 & 3114 of 2023

Vignesh

... Petitioner

Vs.

- 1.The Manager / Authorized Officer,
City Union Bank Limited,
406, Tenkasi Road,
Rajapalayam – 626 117,
Virudhunagar District.
- 2.M/s.Sswana Motors,
Represented by its Authorized Officer,
No.377/A1, Sivakasi – Virudhunagar Road,
Thiruthangal,
Sivakasi – 626 130,
Virudhunagr District.



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WEB CUM 3.G.Selvaganesh

4.S.Annamani

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the learned Chief Judicial Magistrate, Virudhunagar District at Srivilliputtur dated 21.12.2020 made in CrI.M.P.No.5 of 2020 and quash the same as illegal.

For Petitioner : Mr.M.Shakul Hameed

For Respondents : Mr.R.Pandivel,
Standing Counsel for R1

ORDER

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

Challenging the order passed by the learned Chief Judicial Magistrate, Virudhunagar District at Srivilliputtur, made in CrI.M.P.No.5 of 2020, dated 21.12.2020, the petitioner has filed this Writ Petition.



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2. The learned counsel appearing for the petitioner submitted that a lease agreement has been entered between the petitioner and the third respondent and the said agreement executed for three years i.e., from 05.03.2022 to 04.03.2025. He further submitted that the 1st respondent, without disclosing the said fact that the petitioner is in possession of the property in question before the learned Judicial Magistrate, has obtained an eviction order and therefore, the same is liable to be set aside.

3. The learned counsel appearing for the first respondent submitted that the learned Chief Judicial Magistrate, Virudhunagar District has passed order on 21.12.2020 and at the time of passing the order, the petitioner is not in possession of the property in question. He further submitted that the petitioner has stated that the lease agreement was executed for a period of three years i.e., from 05.03.2022 to 04.03.2025 and therefore, the contention of the petitioner is unsustainable. Hence, this Writ Petition is liable to be dismissed.



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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 the learned Judicial Magistrate has passed an order under Section 14 of the SARFAESI Act, on 21.12.2020. However, a lease agreement has been executed only on 05.03.2022 i.e., after the order passed by the learned Chief Judicial Magistrate. Therefore, the contention of the petitioner that the first respondent, without disclosing the fact that the petitioner is in possession of the property in question, had obtained an order is unsustainable.

6. In view of the above, we are of the view that no prima facie case has been made out for entertaining the Writ Petition and therefore, the same is liable to be dismissed.



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7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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

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NCC : Yes / No
Index : Yes / No
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and
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