



W.P(MD)No.4063 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.4063 of 2023
and
W.M.P(MD)Nos.3918 & 3919 of 2023**

H.Shajahan

... Petitioner

VS.

The Authorised Officer,
The Karur Vysya Bank Limited,
No.47, Court Road,
Nagercoil.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the impugned order passed by the learned Chief Judicial Magistrate, Kanyakumari @ Nagercoil in Cr.M.P.No.8007 of 2022, dated 10.02.2023 quash the same.

For Petitioner : Mr.A.S.Abul Kalam Azad

For Respondent : Mr.R.Pandivel
Standing Counsel



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Certiorari, to quash the impugned order passed by the learned Chief Judicial Magistrate, Kanyakumari @ Nagercoil in Cr.M.P.No.8007 of 2022, dated 10.02.2023.

2.The learned counsel appearing for the petitioner submitted that challenging the very same impugned order in the present Writ Petition, the petitioner has also filed an application in S.A.No.77 of 2023 before the Debts Recovery Tribunal, Madurai. When the matter came up for hearing on 22.02.2023, though the petitioner filed the interim application seeking an interim stay of the impugned order, the Debts Recovery Tribunal, posted the matter on 14.04.2023 for filing a counter-affidavit by the respondent. In the meantime, according to the petitioner, the respondent is trying to take possession of the property.

3.The learned counsel appearing for the petitioner further submitted that the petitioner is ready to pay the outstanding amount to the



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respondent Bank. Therefore, he seeks appropriate orders in the present Writ Petition.

4.The learned counsel appearing for the respondent Bank strongly objected and submitted that the prayer sought for in the Writ Petition is not maintainable. The petitioner had already approached the Debts Recovery Tribunal, Madurai, challenging the very same impugned order and the same is pending. The learned counsel appearing for the respondent Bank submitted that the property comprised in Survey Nos.Q7/2, Q7/4, Q7/2, Q7/4, Q7/3 and buildings constructed thereon bearing Door No.104 had already been sold and the rest of the properties are still remaining with the respondent Bank. Therefore, the petitioner has to seek his remedy before the Debts Recovery Tribunal and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing on either side and perused the materials available on record.

6.Admittedly, the petitioner has preferred an application in S.A.No.77 of 2023 before the Debts Recovery Tribunal, Madurai and in the



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aforesaid appeal, the petitioner has also filed an interim application and when the said application is taken up for hearing, though the petitioner is pressing for an interim order, at that time, the respondent Bank made an objection and no interim order has been granted and the same has been adjourned to 14.04.2023.

7.In view of the above, we are of the view that the petitioner has already filed an application in S.A.No.77 of 2023 before the Debts Recovery Tribunal, Madurai, challenging the very same impugned order in the present Writ Petition, the prayer sought for in the Writ Petition cannot be entertained.

8.At this stage, the learned counsel appearing for the petitioner submitted that since the said interim application is pending, a direction may be issued to the Debts Recovery Tribunal, Madurai to dispose of the said interim application at an earliest, so as to protect his right in the aforesaid appeal, for which, the learned counsel appearing for the respondent Bank agreed that the respondent Bank will file a counter-affidavit in the aforesaid interim application.



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9.Considering the submissions made on either side, the Presiding Officer, Madurai is directed to dispose of the interim application in S.A.No.77 of 2023 as early as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order. The petitioner is also at liberty to file an application to fix the early date for the disposal of the interim application.

10.With the above direction and observation, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [L.V.G.,J.]
28.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

The Authorised Officer,
The Karur Vysya Bank Limited,
No.47, Court Road,
Nagercoil.



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D.KRISHNAKUMAR,J.

and

L.VICTORIA GOWRI,J.

ps

ORDER MADE IN
W.P(MD)No.4063 of 2023

DATED : 28.02.2023