



W.P.(MD) No.4912 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD) No.4912 of 2023

and

W.M.P.(MD) No.4596 of 2023

S.Shivakkumar

... Petitioners

-VS-

1.The Authorised Officer,
Indian Bank,
Perambalur Branch,
22/47, Sanjeevarayankoil Street,
Perambalur,
Perambalur District – 621701.

2.The Branch Manager,
Indian Bank,
Perambalur Branch,
22/47, Sanjeevarayankoil Street,
Perambalur,
Perambalur District – 621701.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, by calling for the records, pertaining to the impugned order Crl.M.P.No.488 of 2022 on the file of the Chief Judicial Magistrate, Thanjavur at Kumbakonam, dated 26.10.2022 and quash the same.



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For Petitioner : Mr.G.Mohan Kumar
For Respondents : Mr.R.Pandivel, Standing Counsel

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The challenge in this writ petition is to the order of the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, made under Section 14 of the SARFAESI Act, 2002.

2. The main grievance of the petitioner is that the order which directs possession of the property to be taken through an Advocate Commissioner does not even contain the description of the property.

3. This Court has, on several occasions, pointed out that the minimum requirement is that the order should contain at least the description of the property. Though the petition filed by the bank before the learned Chief Judicial Magistrate contains the description of the property, the same is not reflected in the order. Hence, we have no other option to set aside the order passed in CrI.M.P.No.488 of 2022, 26.10.2022.



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4. Accordingly, this writ petition is allowed and the order dated 26.10.2022 made in CrI.M.P.No.488 of 2022 by the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, is set aside. The petition in CrI.M.P.No.488 of 2022, is remitted back to the Chief Judicial Magistrate, Thanjavur, at Kumbakonam, to pass appropriate orders incorporating the schedule of the property, within period of four weeks from the date of receipt of a copy of this order. The other grounds of challenge are left open. No Costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

10.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

PM

To

The Chief Judicial Magistrate,
Thanjavur at Kumbakonam.



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

pm

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