



CRP(MD)No.925 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

CORAM:

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

C.R.P(MD)No.925 of 2023

Canara Bank

... Petitioner/Petitioner

-vs-

M/s.Infinite Switch Gear,
Proprietor Thiru.C.Siva Kumar,
S/o.Thiru.V.Chandran

... Respondent/Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India,
against the return order made in CrI.M.P. Filing No.30140/2023 on the file
of the Chief Judicial Magistrate, Dindigul, dated 07.02.2023 & 02.03.2023.

For Petitioner : Mr.P.Madhan Alexandar

ORDER

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

In view of the fact that the challenge is to the return endorsement
made by the learned Chief Judicial Magistrate, Dindigul, notice to the
respondent is deemed unnecessary.



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2. It is a very unfortunate case where the learned Chief Judicial Magistrate seeks to interpret the orders of this Court, that too wrongly. The learned Chief Judicial Magistrate, Dindigul, had returned an application filed by the bank under Section 14 of SARFAESI Act, 2002, requiring the bank to produce the original documents relating to the mortgage by an order dated 06.08.2022. Since the bank could not convince the learned Chief Judicial Magistrate that production of original records is not necessary, the bank was forced to challenge the order in C.R.P.(MD)No.74 of 2023. A Division Bench of this Court by order, dated 11.01.2023, allowed the said writ petition and observed as follows:

“6.We find force in the aforesaid contentions of the learned counsel for the petitioner. Accordingly, the impugned docket orders made in CRL MP filing No.12626/2022 on the file of the Chief Judicial Magistrate, Dindigul, dated 06.08.2022, 01.11.2022, 21.11.2022 are set aside. We direct the petitioner to re-present the petition filed under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Dindigul, within a period of two weeks from the date of receipt of a copy of this order. On such re-presentation, the learned Chief Judicial Magistrate, Dindigul, is directed to take the petition in CRL MP filing No. 12626/2022 on file, without insisting upon production of



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original documents for verification, and number the same, if the papers are otherwise in order. Registry is directed to return the original petition filed along with this revision to the learned counsel for the petitioner after getting attesting copies of same.”

3. Again, a similar petition filed by the bank was returned by the Chief Judicial Magistrate, Dindigul (Same Officer), seeking production of originals. The learned counsel appearing for the bank made the following endorsement:

“As per order in CRP(MD)No.74 of 2023 passed by the Hon'ble High Court Madurai Bench dated 11.01.2023. It is not mandatory to produce the original documents for verification.

On foot of the order passed by the Hon'ble High Court this petition may be numbered and commissioner may be appointed.”

4. In response to that return endorsement made by the learned counsel for the bank, the learned Chief Judicial Magistrate, again returned the papers with the following observations:



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“In CRP.No.74 of 2023 dated 11.01.2023 order passed by our Hon'ble Madurai Bench of Madras High Court is not applicable for all petitions and not directed to take all the petitions to file without production of the original documents.

Hence for production of the original documents this petition is returned.”

5. This we find very strange. Once this Court had held that the learned Chief Judicial Magistrate shall not insist on production of original documents in applications filed under Section 14 of the SARFAESI Act, 2002, a judgment of a Division Bench of this Court will operate as a precedent.

6. It is fundamental principle of law that judgment of the High Court will operate as a precedent even if it is a uncontested judgment. It is rather unfortunate that a Senior Officer at the level of Chief Judicial Magistrate should state that the order of the Division Bench of the High Court will be applicable only for that case and not for all petitions. In any event, in order to cure the ignorance of the learned Chief Judicial Magistrate, Dindigul, while allowing this civil revision petition, this Court



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directs her to take on file the application under Section 14 of the SARFAESI Act, 2002, without insisting on production of originals.

We make it clear that our judgment will apply to all cases and the learned Chief Judicial Magistrate, Dindigul, shall not return the papers in any application filed under Section 14 of the SARFAESI Act, 2002, requiring the bank to produce the original documents. No Costs.

[R.S.M., J.]

[L.V.G., J.]

06.04.2023

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

PM

Note:Registry is directed to return the original petition to the petitioner to represent the same.

To:

The Chief Judicial Magistrate,
Dindigul.



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

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