



W.P(MD)No.11497 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.05.2023

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.11497 of 2023
and
W.M.P(MD)No.9981 of 2023**

Vishnu Pillai

... Petitioner

Vs.

1.Indian Bank

Represented by Authorized Officer
Stressed Assets Management Vertical Branch,
1st Floor, Near Carmel Garden MHS School,
Puliakulam Main Road,
Coimbatore-641 045.

2.Indian Bank,

Represented by Branch Manager,
IND MSME Branch,
Coimbatore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the Respondents to bring to sale the agricultural land in Survey No.349/5 & 351/1, Thalappatti Village, Manmangalam Taluk, Karur District as per Section 31(i) of SARFAESI Act and based upon petitioner's representation, dated 06.05.2023.



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For Petitioner :Mr.KK.Kannan
For Respondents :Mr.R.Pandivel
Standing Counsel

ORDER

Heard the learned counsel on either side.

2. The petitioner wants to restrain the respondents from bringing to sale the petition mentioned lands.

3. According to the learned counsel for the petitioner, the petition mentioned lands are agricultural lands and that therefore, the provisions of SARFAESI Act cannot be invoked against the same.

4. The learned Standing Counsel appearing for the respondents Bank would point out that the petitioner is not a borrower and that his parents have already filed a SARFAESI appeal before the Debt Recovery Tribunal (DRT), Coimbatore. It appears that some interim order was granted by the Tribunal, but the petitioner's mother failed to comply with the same. We do not go into the said aspect.



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5. It is seen from the revenue records that the petitioner is also having a share in Survey No.349/5 in Thalappatti Village. The petitioner can very well file a partition suit for dividing his share in the said survey number. The petitioner can also file an independent SARFAESI appeal questioning the action taken by the Bank insofar as his share is concerned. We are of the view that this writ petition is not maintainable. The petitioner is permitted to approach either the jurisdictional Civil Court or the jurisdictional DRT. The contentions of both the parties are left open.

6. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S.,J.] [S.S.Y.,J.]
10.05.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
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G.R.SWAMINATHAN, J.

AND

S.SRIMATHY, J.

am/Indu

ORDER MADE IN

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