



W.P.(MD) No.13667 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 09.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P. (MD) No.13667 of 2023
and W.M.P. (MD) No.11521 of 2023

1.Smt.Kavitha
2.J.Nilofar Fathima
3.J.Nazeema Begum

... Petitioners

Vs.

1.The Authorised Officer,
Canara Bank, ARM Branch,
St. Mary's Campus,
Circle Office, 1st Floor,
East Veli Street, Madurai – 01.

2.Mr.Mohammed Iqbal

3.S.Safayathullah

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the learned Chief Judicial Magistrate, Dindigul under Section 14 of the SARFAESI Act,



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2002, dated 13.04.2023 made in Crl.M.P.No.2542 of 2023 and quash the same and consequently direct the Respondents not to evict the petitioner without following due process of law.

For Petitioner : Mr.Ajmal Khan,
Senior Counsel for
M/s.Ajmal Associates

ORDER

(Order of the Court was made by ***R.SURESH KUMAR, J.***)

This Writ Petition has been filed challenging the order passed by the learned Chief Judicial Magistrate, Dindigul, dated 13.04.2023 made in Crl.M.P.No.2542 of 2023, under Section 14 of the SARFAESI Act, 2002.

2. The petitioners before us claimed to be tenants of the property in question.

3. Since, in the order impugned, the learned Chief Judicial Magistrate has appointed an Advocate Commissioner for taking possession by break open the buildings of the secured assets as mentioned in the schedule property of the premises and to hand over the same to the secured



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creditor with the assistance of the concerned V.A.O. and Inspector of Police, there is an imminent threat of the dispossession of the petitioners, who are the tenants in the premises.

4. With regard to the said conditions, learned Senior Counsel appearing for the petitioners would submit that, even if they file an appeal before the Debt Recovery Tribunal against the order impugned, no breathing time is available for the petitioners as the threat has come by issuance of notice by the learned Advocate Commissioner that by Monday (12.06.2023) i.e., within 2 to 3 days, the petitioners would be evicted forcibly, if they have not voluntarily vacated the premises.

5. Only in that circumstances, he plead for some time to approach the Debts Recovery Tribunal against the impugned order.

6. Considering the said submission made by the learned Senior Counsel appearing for the petitioners, while we are not entertaining this Writ Petition and inclined to dismiss the same, we give some interim protection to the petitioners to enable them to approach the concerned Debt



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Recovery Tribunal by filing appeal against the order impugned immediately on the next week, commencing from 12th of this month.

7. For the aforesaid purpose, time till 21.06.2023 is granted to the petitioners to move the Debt Recovery Tribunal against the impugned order. Till such time, the status-quo as on today with regard to the possession of the petitioners as tenants shall be maintained. It is made clear that on or before 21.06.2023, if the petitioners have not approached the Tribunal and worked out their remedy, it is open to the respondent bank to proceed further pursuant to the impugned order in accordance with law.

8. With these observations and directions, this Writ Petition is dismissed. However, there shall no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.K., J.) & (K.K.R.K, J.)

09.06.2023

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



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Note : Issue copy on 09.06.2023

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To

- 1.The Authorised Officer,
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AND

K.K.RAMAKRISHNAN, J.

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