



W.P(MD)No.16206 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.16206 of 2022
and
W.M.P(MD)Nos.11718 & 11720 of 2022**

Santhosh Kumar

... Petitioner

VS.

The Authorized Officer,
DBS Bank Limited,
Karur,
Karur Main Branch,
Represented by its Authorized Officer,
Rajakumar.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Cr.M.P.No.212 of 2021 dated 07.07.2021 on the file of the Chief Judicial Magistrate, Karur and quash the same as illegal and consequently direct the respondent to disburse the second term loan.



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For Petitioner

: Mr.C.Arul Vadivel @ Sekar
Senior Counsel
for Mr.S.Muniyandi

For Respondent

: Mr.S.I.Muthiah
Standing Counsel

ORDER

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

The petitioner has filed the present Writ Petition seeking for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order in Cr.M.P.No.212 of 2021 dated 07.07.2021, on the file of the Chief Judicial Magistrate, Karur and consequently to direct the respondent to disburse the second term loan.

2.Earlier, the petitioner filed a Writ Petition before the Principal Seat in W.P.No.3457 of 2020, challenging the order passed by the first respondent therein, dated 24.07.2019 and by order, dated 20.03.2020, the Principal Seat has granted an order of interim stay stating that the auction shall go on, however, the confirmation shall be kept in abeyance. The said Writ Petition is still pending. After the interim order was granted, the respondent Bank approached the learned Chief Judicial Magistrate, Karur



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under Section 14 of the SARFAESI Act and the learned Chief Judicial Magistrate, Karur, by order, dated 07.07.2021, appointed an Advocate Commissioner to take possession of the property. The said impugned order is challenged in the present Writ Petition.

3.The learned Senior Counsel appearing for the petitioner submitted that the Writ Petition filed before the Principal Seat in W.P.No.3457 of 2020 is pending, wherein, an order of interim stay has been granted that the auction shall go on, however, the confirmation shall be kept in abeyance. The impugned order passed in the Writ Petition would cause prejudice to the rights of the petitioner. Further, the learned Senior Counsel submitted that the property in question is an agricultural land and a loan was availed by the petitioner for the establishment of a dairy farm, which comes under the agricultural sector. Therefore, according to the learned senior counsel, the respondent has no jurisdiction to proceed under Section 14 of the SARFAESI Act.



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4.The learned counsel appearing for the respondent Bank submitted that the petitioner has challenged the impugned order passed under Section 14 of the SARFAESI Act, whereas, the petitioner has not challenged the notice issued under Section 13(4) of the SARFAESI Act. Without challenging the said notice, the petitioner has filed the present Writ Petition which is not at all maintainable. Further, the learned counsel submitted that if the petitioner has any grievance, he has to approach the Debts Recovery Tribunal for getting appropriate orders, if he is entitled, as per the law.

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

6.Considering the facts and circumstances of the case, we are of the view that the petitioner has challenged the impugned order passed under Section 14 of the SARFAESI Act is not maintainable. Further, all the disputed facts are to be decided before the Debts Recovery Tribunal. Therefore, we are not inclined to entertain the present Writ Petition and the Writ Petition is liable to be dismissed.



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7. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to work out his remedy before the Debts Recovery Tribunal in the manner known to law, if he is so advised, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
06.02.2023

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

To

Rajakumar,
The Authorized Officer,
The Authorized Officer,
DBS Bank Limited,
Karur Main Branch,
Karur.



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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.16206 of 2022

DATED : 06.02.2023