



W.P.(MD)No.16974 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**  
and  
THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD)No.16974 of 2023  
and  
W.M.P(MD)Nos.14197 and 14198 of 2023

S.Viswanathan Rajagopal

... Petitioner

Vs.

The Recovery Manager,  
M/s.Cholamandalam Investment  
And Finance Company Limited.,  
No.2/3, G.V. Towers,  
III Floor,  
Melakkal Main Road,  
Madurai District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the Chief Judicial Magistrate, Karur in CrI.M.P.No.4645 of 2023 dated 03.07.2023 and quash the same as illegal and not to disturb the peaceful possession of the petitioner's properties in S.No.50/1, 48/3, Ward No.17, Kulithalai Village, Kulithalai Taluk, Karur District.

For Petitioner :Mr.K.Dinesh

For Respondent :Mr.P.Pethurajesh,  
Standing Counsel



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**ORDER**

(Order of the Court was made by **S.S.SUNDAR, J.**)

Heard Mr.K.Dinesh, learned counsel for the petitioner and Mr.P.Pethurajesh, learned Standing Counsel for the respondent-Financial Institution.

2. The petitioner has filed this writ petition challenging the order passed by the Chief Judicial Magistrate, Karur in Crl.M.P.No.4645 of 2023 dated 03.07.2023 and not to disturb the peaceful possession of the petitioner's properties in S.No.50/1, 48/3, Ward No.17, Kulithalai Village, Kulithalai Taluk, Karur District.

3. Despite the Honourable Supreme Court has repeatedly held that a writ petition in exercise of power under Article 226 of the Constitution of India, is not maintainable as against the order passed under Section 14 of the SARFAESI Act, 2002, the petitioner has come forward by way of this writ petition challenging the order passed under Section 14 of the SARFAESI Act, mainly on the ground that the petitioner was not furnished with loan details and



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the respondent – Financial Institution did not consider the substantial payment made by the petitioner.

4. This Court is of the view that the petitioner can agitate all the issues before the Debts Recovery Tribunal while challenging the order passed by the Chief Judicial Magistrate in accordance with law.

5. In view of the same, this writ petition is dismissed. However, the respondent shall maintain status quo till 25.07.2023 to enable the petitioner to approach the Debts Recovery Tribunal. No Costs. Consequently, connected Miscellaneous Petitions are closed.

[S.S.S.R., J.] [D.B.C., J.]  
13.07.2023

Index : Yes / No  
NCC : Yes/No  
PM



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The Chief Judicial Magistrate,  
Karur.



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**S.S.SUNDAR, J.**

and

**D.BHARATHA CHAKRAVARTHY, J.**

pm

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**13.07.2023**