



W.P.(MD)No.17272 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

CORAM:

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

W.P(MD)No.17272 of 2023
and
W.M.P(MD)Nos.14461 and 14462 of 2023

Thiru.S.Thangaprabhu

... Petitioner

Vs.

1.The Banking Ombudsman,
C/o.Reserve Bank of India,
Fort Glacis, Chennai – 600001.

2.The Authorized Officer,
Tamilnad Mercantile Bank Ltd.,
Rajapalayam Branch,
Aishwarya Complex,
D.No.391, Tenkasi Road,
Rajapalayam – 626117.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings in CrI.M..No.39 of 2021 and consequential order dated 18.10.2021 on the file of the Hon'ble Chief Judicial Magistrate at Srivilliputtur and quash the same as illegal.



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For Petitioner :Mr.T.Thangamani

For R-2 :Mr.Thevan

ORDER

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

Heard the learned counsel for the petitioner and the learned counsel for the respondent bank.

2. This Writ Petition is filed challenging the order dated 18.10.2021 made in CrI.M.P.No.39 of 2021 by the learned Chief Judicial Magistrate at Srivilliputtur in the application filed under Section 14 of the SARFAESI Act, 2002, appointing an Advocate Commissioner for the purpose of securing possession of the mortgaged property.

3. The impugned order is dated 18.10.2021. However, the petitioner has filed this writ petition with a long delay of nearly two years. It is admitted before this Court that the petitioner has also filed a Sarfaesi Application in S.A.No.357 of 2021, challenging the sale notice



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as well as possession notice issued under Section 13(4) of the SARFAESI Act, 2002. Though the petitioner was able to get an interim order in I.A.No.1359 of 2021, dated 20.10.202, it is now admitted before this Court that the Sarfaesi Application in S.A.No.357 of 2021 was dismissed by order, dated 23.06.2023. Despite dismissal of Sarfaesi Application, the petitioner has now filed the above writ petition challenging the order that was passed in the application filed by the bank under Section 14 of the SARFAESI Act, 2002. We are of the view that such a writ petition cannot be entertained.

4. Further, it is stated that as against the dismissal of the sarfaesi application, the petitioner has preferred a further appeal. Therefore, liberty is granted to the petitioner either to file an application in the appeal which is stated to be filed by the petitioner or an independent application before DRT, seeking appropriate relief.

5. With such liberty, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed. However, the second respondent bank is directed to maintain status quo till



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28.07.2023, so as to enable the petitioner to approach the DRT or DRAT
for appropriate relief.

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[S.S.S.R., J.] [D.B.C., J.]
18.07.2023

Index : Yes / No
NCC : Yes/No

pm

To:

The Chief Judicial Magistrate,
Srivilliputtur.



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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

pm

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