



W.P.(MD)No.17464 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No17464 of 2023

and

W.M.P(MD)No.14633 of 2023

P.Pulukaruppa Ayyanar

... Petitioner

Vs.

1.The Authorized Officer,
Indian Bank,
No.5, Podayan Street,
Bodinayakanur-625 513.

2.The Branch Manager,
Indian Bank,
Bodinayakanur Branch,
Bodinayakanur Town,
Theni District.

3.P.Radhaganesan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 to exempt the petitioner's undivided 3 Acre 75 Cents lands out of 13 Acre 25 Cents, in



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the total 19 Acre land in S.No.114/4 B I Mayiladumparai Village, in Andipatti Taluk in Theni District by considering petitioner's objection dated Nil.03.2023 as under Section 13(3)A of SARFAESI to the demand notice dated 04.03.2023 issued by the first respondent.

For Petitioner : Mr.R.Suriyanarayanan
For Respondents : Mr.M.Senthil Kumar
Standing Counsel for the Bank

ORDER

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

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents 1 & 2.

2. This writ petition has been filed for issuance of writ of mandamus directing the respondents 1 & 2 to exempt the petitioner's undivided 3 Acre 75 Cents lands out of 13 Acre 25 Cents, in total 19 Acre land in S.No.114/4 B in Mayiladumparai Village, Andipatti Taluk, Theni District.



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3. The petitioner is one of the sons of one V.Paluchamy, who had borrowed the money from the respondents Bank by mortgaging his immovable properties including the property in Survey No.114/4 B in Mayiladumparai Village. The petitioner states that he has an independent right in respect of un-divided 3.75 acres out of total extent of 13 acre 25 cents, which form part of 19 acres at survey No.114/4 B. The petitioner has come forward with this writ petition at the stage when the Bank has issued notice under Section 13(2) A of SARFAESI Act. This Court find that the writ petition is immature.

4. If the petitioner has an independent right, it is open to him to file a civil suit to establish his un-divided share by impleading the bank as a party. Assuming that the petitioner's un-divided share is sought to be proceeded against for the debt incurred by the father of the petitioner, alternative remedy is available to him to approach the Tribunal, if he is aggrieved by any order that will be passed under Section 13(4) of SARFAESI Act. Therefore, giving liberty to the petitioner to approach the Civil Court for appropriate relief or Debt Recovery Tribunal to establish his independent right in respect of the property, this writ



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petition stands dismissed. However, no order as to costs. Consequently,
connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]
20.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

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