



W.P(MD)No.19007 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

**W.P(MD)No.19007 of 2023
and
W.M.P(MD)Nos.15785 and 15786 of 2023**

G.Sujitha

... Petitioner

Vs.

1.The Authorized Officer,
Indian Bank,
Zonal Office,
Tirunelveli.

2.The Branch Manager,
Indian Bank,
Marthandam Branch,
Kanniyakumari District.

3.G.Praksh Kumar
4.Mrs.J.Pushpam

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the CrI.M.P.No.9738 of 2023 dated 19.07.2023 on the file of the learned Chief Judicial Magistrate Court, Kanniyakumari at Nagercoil



W.P(MD)No.19007 of 2023

and quash the same, insofar as it relates to item 3 to 6 of the schedule mentioned properties therein.

For Petitioner : Mr.VMeenakshi Sundaram for
Mr.G.Mohankumar
For R1 : Mr.B.Rajesh Saravanan
For R-2 to R-4 : No Appearance

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

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

2. The contention of the petitioner is that the mortgage was executed by the bank in respect of the assets on the basis of a registered Will. The said registered Will was already cancelled before the death of the testator.

3. The learned counsel for the petitioner submits that the petitioner is the sister of the one who had mortgaged the property on the basis of a registered Will.

4. The learned counsel for the bank accepts about the registered document of cancellation of Will.



W.P(MD)No.19007 of 2023

5. The suit for partition is pending. The document in question relates to Item Nos.3 to 6 of the notice issued under Section 14 of the SARFAESI Act, 2002. It is accepted that the respondent bank would await the decision of the partition suit and thereafter only would take decision with regard to the properties in Item Nos.3 to 6 of the notice under Section 14 of the SARFAESI Act, 2002.

6. In light of that, the respondent bank may proceed with regard all the properties mentioned in the notice except Item Nos.3 to 6. However, the properties detailed in Item Nos.3 to 6 can be dealt with in tune with the judgment of the civil Court.

7. The writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

[S.V.G., C.J.]

[K.K.R.K., J.]

29.11.2023

Index : Yes / No
Neutral Citation : Yes / No
PM



W.P(MD)No.19007 of 2023

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To:

The Chief Judicial Magistrate Court,
Kanniyakumari at Nagercoil.



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W.P(MD)No.19007 of 2023

THE HONOURABLE CHIEF JUSTICE
and
K.K. RAMAKRISHNAN, J.

PM

W.P(MD)No.19007 of 2023

29.11.2023