



W.P.(MD) No.19645 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2023

CORAM:

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

**W.P.(MD) No.19645 of 2023
and
W.M.P.(MD) No.16219 of 2023**

M.Karpagavalli

... Petitioner

-vs-

The General Manager
Small Industries Development Bank of India
(Regional Office)
Overseas Towers, 756 L
Anna Salai (Opp. TVS)
Chennai-600 002

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the sale notice dated 21.07.2023, published by the respondent Bank in Tamil daily namely "Daily Thanthi" on 01.08.2023 and set-aside the same as illegal and further directing the respondent to provide an opportunity and adequate time to settle the entire loan amount in "One Time Settlement".

For Petitioner : Mr.B.Senthil Nathan



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ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This writ petition is filed challenging the sale notice, dated 21.07.2023, issued by the respondent – Bank, for the money borrowed by the petitioner's father for his business purpose.

2. The petitioner herein is the daughter of one Subramanian. The said Subramanian appears to have borrowed loan from the respondent – Bank by mortgaging his properties, which are the subject matter of this writ petition. The petitioner has earlier filed a civil suit in O.S.No.28 of 2021, before the District Court, Sivagangai, for partition of her 1/3rd share in the suit schedule properties, on the ground that by virtue of the Hindu Succession (Amendment) Act, 2005, she is also entitled to equal right by birth. Referring to the said suit, the petitioner has now challenged the sale notice, on the ground that the respondent – Bank cannot proceed against the entire properties ignoring the suit, in which the respondent – Bank is also impleaded as a party defendant.

3. This Court is unable to find any merit in this writ petition for the simple reason that in the affidavit filed in support of the writ petition, the



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petitioner herself has stated that the subject property is the self-acquired property of one Chidambaram Pillai, grandfather of the petitioner. The petitioner has also admitted that her grandfather died on 12.11.2001 (i.e. after the Hindu Succession Act, 1956 came into force). In the said circumstances, as settled by this Court and the Honourable Supreme Court, the subject property is the exclusive property of the petitioner's father Subramanian, on the death of his father Chidambaram Pillai on 12.11.2001. In the said circumstances, this Court finds no merit in this writ petition.

4. Accordingly, this writ petition fails and it is dismissed. In view of the factual contentions being decided as against the petitioner, this Court is not inclined to give any liberty to her. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

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

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