



**W.P.(MD) No.21098 of 2023**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 29.08.2023**

**CORAM:**

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE  
and  
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**W.P.(MD) No.21098 of 2023**

**and**

**W.M.P.(MD) Nos.17504 & 17505 of 2023**

S.Karthik

... Petitioner

-VS-

M/s.Housing Development Finance  
Corporation Ltd., (HDFC Ltd.)  
No.406, Sakthi Sivam Plaza  
Pumping Station Road, 9<sup>th</sup> Cross  
KK Nagar East, Madurai-625 020  
rep.by its Authorised Officer

... Respondent

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for records of the impugned order / warrant of commission issued under Section 14 of the SARFAESI Act by the Chief Judicial Magistrate, Tiruchirappalli, in CrI.M.P.No.27688 of 2022, dated 13.07.2023 and quash the same.



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For Petitioner : Mr.R.S.Sivaram

For Respondent : Mr.N.S.Karthikeyan  
Standing Counsel

**ORDER**

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

We have heard Mr.R.S.Sivaram, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Standing Counsel, appearing for the respondent – Bank.

**2.** The petitiopner is challenging the order passed under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

**3.** Learned counsel for the petitioner states that the petitioner had already challenged the auction notice under Section 13(4) of the SARFAESI Act before the Debts Recovery Tribunal. However, since for a long time the Presiding Officer is not available, all the matters are kept pending till 22.09.2023 by the Debts Recovery Tribunal.



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4. In the interregnum, the order under Section 14 of the SARFAESI Act has been passed and the same is sought to be assailed.

5. The petitioner has a remedy available before the Debts Recovery Tribunal.

6. Learned counsel for the petitioner submits that the officials of the respondent – Bank are going to come on the site for taking possession today.

7. In view of the alternative remedy available to the petitioner before the Debts Recovery Tribunal, we are not inclined to exercise our writ jurisdiction. However, it is submitted that the petitioner is ready to deposit a sum of Rs.5,00,000/- (Rupees five lakhs only) with the respondent – Bank on or before 01.09.2023.

8. In case the petitioner deposits Rs.5,00,000/- (Rupees five lakhs only) with the respondent – Bank by 01.09.2023, then the respondent – Bank shall not take possession of the secured property for a period of seven days



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from today, so as to enable the petitioner to avail the alternative remedy before the Debts Recovery Tribunal.

**9.** Needless to state that if the petitioner fails to deposit Rs.5,00,000/- by 01.09.2023, then the respondent – Bank may proceed further with the proposed auction.

**10.** The writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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

**[C.K., J.]**

**29.08.2023**

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

**Note to Office:**

Issue order copy today.

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To:  
The Chief Judicial Magistrate,  
Tiruchirappalli.



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**THE HONOURABLE CHIEF JUSTICE**  
**and**  
**C.KUMARAPPAN, J.**

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**29.08.2023**