



W.P.(MD) No.21426 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

CORAM:

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

W.P.(MD) No.21426 of 2023

and

W.M.P.(MD) No.17835 of 2023

Annamayil

... Petitioner

-VS-

- 1.The Chief Manager/ Constituted Attorney
Andhra Bank
Tiruchirapalli Main Branch
Salai Road, Woraiyur
Tiruchirapalli-620 003
- 2.The Zonal Manager
Andhra Bank
Zonal Office at No.581/1
D.B. Road, R.S.Puram
Coimbatore 641 002
- 3.The Branch Manager
Union Bank of India
Trichy-2 Branch
(Union Bank of India-e-AB)
No.100-A, Ground Floor
Woraiyur, Tiruchirappalli-620 003



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WEB COUNCIL 4.Vasuki

5.R.S.Kannan

6.Ramya

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus to direct the respondents 1 to 3 not to deal with the subject property situated in T.S.No.156/2 Part, Ward No.L, New Ward AC, Block-1, Plot No.47, Karunanithi Street, Ulaganathapuram, Trichy, which was mortgaged by the respondents 5 and 6 with the third respondent dated 23.10.2015 which is covered in the Second Appeal Nos.2011, 2012, 2013 of 2003, pending before this High Court under SARFAESI Act till the disposal of the above second appeals.

For Petitioner : Mr.I.Velpradeep

For Respondents : Mr.N.Dilip Kumar
Standing Counsel for R1 to R3

ORDER

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

We have heard Mr.I.Velpradeep, learned counsel appearing for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel, appearing for the respondent – Bank.



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2. Learned counsel for the petitioner submits that the petitioner is the owner of the subject property. A suit was filed by the petitioner for declaration and recovery of possession. The suit was decreed and in the appeal, the decree was reversed. The petitioner has filed a second appeal and the same is pending before this Court. The respondents 5 and 6 have allegedly taken loan from the respondent – Bank and they are trying to enter upon the subject property. The respondents 5 and 6 are required to be restrained from dealing with the subject property in whatsoever manner.

3. Learned Standing Counsel appearing for the respondent – Bank submits that e-auction was conducted in the year 2019. The physical possession of the subject property has been taken yesterday.

4. According to the learned counsel for the petitioner, the possession taken by the respondent – Bank is in respect of the other property and not in respect of the property claimed by the petitioner.

5. Be that as it may, today, the suit of the petitioner / plaintiff is dismissed by the Appellate Court. The second appeal is pending before this



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Court. A person interested can also challenge the auction before the Debts Recovery Tribunal under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

6. The matter would involve disputed questions of fact. Moreover, today, the decree is not in favour of the petitioner. The petitioner may seek for appropriate relief in the pending second appeal or before the Debts Recovery Tribunal, as may be permissible under law.

7. The writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

[C.K., J.]

01.09.2023

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

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THE HONOURABLE CHIEF JUSTICE
and
C.KUMARAPPAN, J.

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