



WEB COPY



W.P.(MD)No.25531 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.25531 of 2023

and

W.M.P(MD) Nos.21700 and 21701 of 2023

E.Alavudeen

... Petitioner

Vs.

1.HDFC Bank Ltd.,
Department of Special Operations,
Having Office at Classic Towers,
No.1547, Trichy Road, Coimbatore,
Rep. by its Authorized Officer,
Mr.A.Sivalingam

2.S.K.Mujibur Rahman

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the Learned Chief Judicial Magistrate, Karur, in Cr.M.P.No.3136 of 2023, dated 26.04.2023, appointing an Advocate Commissioner for taking Physical Possession of the subject property in so far as the Petitioner is concerned and quash the same.

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For Petitioner : Mr.S.Suresh

ORDER

(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)

The petitioner challenges the proceedings of the learned Chief Judicial Magistrate, Karur, in Cr.M.P.No.3136 of 2023, dated 26.04.2023.

2. The petitioner had rightly approached the Debts Recovery Tribunal, Coimbatore. Unfortunately, the Debts Recovery Tribunal has been returning the papers atleast on two occasions, namely, on 13.10.2023 and 16.10.2023, stating that the learned Chief Judicial Magistrate's order is for a larger extent, whereas the petitioner is occupying a smaller extent, therefore, the appeal is not being numbered.

3. Perusal of the order of the learned Chief Judicial Magistrate shows that there are totally four shops, of which, the petitioner is in occupation of one. The petitioner feels aggrieved by the fact that the second respondent before the



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Debt Recovery Tribunal, Karur, had put him in possession of the property and had kept him in dark regarding the proceedings that had been initiated against him. Hence, he feels aggrieved and had sought for the intervention of this Court to restrain the first respondent from exercising the powers vested under Section 17(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

4. The petitioner having rightly approached the Debts Recovery Tribunal, Coimbatore, we are not in a position to entertain this Writ Petition. We cannot encourage parallel remedies. However, we notice that the Debts Recovery Tribunal, Coimbatore, is not numbering it on the ground that the petitioner has not sought for setting aside the entire order of the Chief Judicial Magistrate, Karur. A person, who is in occupation of smaller portion, cannot ask for remedy for the entire extent. He can seek remedy only insofar he is concerned. That having been done, we feel that in the interest of justice a direction be given to the Debts Recovery Tribunal, Coimbatore, to number the appeal filed in SR No.1818 of 2023 and take up the main appeal for orders, if the papers are otherwise in order.



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5. With the above directions, this Writ Petition is disposed of. No costs.

Consequently connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)
20.10.2023

NCC : Yes / No

Index : Yes / No

SJ



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V.LAKSHMINARAYANAN, J.

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