



W.P.(MD)No.25933 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2023

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CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

and

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.25933 of 2023

and

W.M.P.(MD)No.22286 of 2023

S.V.Amrutha

: Petitioner

Vs.

1.The State Bank of India,
Kumaram Branch,
Rep. by through its Authorized Officer,
Alanganallur Main Road,
Kumaram Branch,
Madurai – 625 018.

2.S.J.Vijayaragavan

3.V.Sujith Kumar

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, forbearing the 1st respondent, their men, agents, from in any way dispossessing the petitioner's from 1/2 share of the property comprised in S.No.13/5B and 13/9 to an extent of 41 cents in it south eastern 9 cents 380



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sq.feet situated at Mangalakudi Village, Othakadai Subdivision
Madurai District till the disposal of I.A.No.49/2023 in O.S.No.
20/2023 on the file of 5th Additional District Court, Madurai.

For Petitioner : Mr.R.G.Shankar Ganesh
For Respondent No.1 : Mr.D.Sivaraman
Standing Counsel

ORDER

Heard the learned Counsel for the writ petitioner and the
learned Standing Counsel for the first respondent Bank.

2.It is true that the petitioner is neither a borrower nor
guarantor. It is seen that the petitioner has already filed O.S.No.20
of 2023 before the Principal District Judge, Madurai. The
respondents in this writ petition are figuring as defendants in the
suit. It is a suit for partition.

3.Learned Standing Counsel for the Bank points out that
this is the petitioner's third attempt. Copy of the order dated
06.10.2023 made in W.P.(MD)No.24214 of 2023 has been produced
and the same reads as follows:

*"The petitioner challenges the sale notice
of the 1st respondent, dated 20.09.2023. Typed set of
papers reveals that already a suit in O.S.No.20 of
2023 has been presented before the Principal*



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District Court, Madurai. The petitioner claims $\frac{1}{2}$ share in the property. According to her, her father and herself are each entitled to $\frac{1}{2}$ share and the mortgagor in favour of the Bank has purchased $\frac{1}{2}$ share from her father. If the suit is decreed, it will obviously bind only $\frac{1}{2}$ share of her father and not her share. This relief sought for in the present Writ Petition can very much be obtained by way of filing an interlocutory application in the pending suit by establishing her right. A Writ Petition is not substitute for interlocutory application in a civil suit. Consequentially, reserving the right of the petitioner to move interlocutory application for injunction to protect her right in O.S.No.20 of 2023, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

4.We are of the view that interference is not warranted. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[G.R.S.,J.] & [P.D.B.,J.]
26.10.2023

Neutral Citation : Yes/No

Index : Yes/No

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G.R.SWAMINATHAN, J.

and

P.DHANABAL, J.

MR

ORDER MADE IN

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26.10.2023