



WEB COPY

CRP(MD)No.74 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

CRP(MD)No.74 of 2023

Canara Bank,
Salai Road Branch,
Dindigul District,
Represented through its Authorized Officer,
Ms.P.Shobana

... Petitioner

VS.

1. M/s.Emyees Paper Industries,
Proprietor Thiru S.Masthan Ibranhim,
S/o. Thiru.S.Mohammed Siddique,
No.49/13, Vivekanandha Nagar Extension,
Dindigul-624 003.

2. Thiru S.Mohammed Siddique

... Respondents

PRAYER : Writ Petition filed under Article 227 of the Constitution of India, against the impugned docket order made in CRL MP filing No. 12626/2022 on the file of the Chief Judicial Magistrate, Dindigul, dated 06.08.2022, 01.11.2022, 21.11.2022.

For Petitioner : Mr.P.Madhan Alexandar

**ORDER****(Order of the Court was made by D.KRISHNAKUMAR, J.)**

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Aggrieved by the return of the petition filed under Section 14 of the SARFAESI Act, the petitioner/Bank has filed this revision petition.

2. Originally, the petition filed by the Bank was returned on 06.08.2022 with an endorsement that original documents have not been produced for verification. The petitioner re-presented the said petition on 23.08.2022 stating that Section 14 of the SARFAESI Act does not warrant such production of original documents for verification and that there are various judgments of the Apex Court to the effect that the District Magistrate or Chief Judicial Magistrate concerned should not compel the secured creditor to produce the original documents. However, the learned Chief Judicial Magistrate, Dindigul, again returned the same with the following endorsements:-

"i) Original documents to be produced for verifying the Xerox copies submitted before this Court.

2) or undertaking/affidavit to be filed.

3) To be stated the particulars regarding any stay/appeal is pending before any forum."



3. The petitioner re-presented the petition on 17.11.2022 with an undertaking affidavit. However, again, the petition was returned with the following endorsement:-

"In affidavit Para No.3 stated that "the list of documents as mentioned in the petition are available with petitioner Bank as original and as certified copies.

Then, explain what is the difficulty to produce the original documents before this Court for verifying the documents."

4. Challenging the aforesaid return endorsements, the petitioner has filed this revision.

5. Learned counsel for the petitioner submitted that while Section 14 of the SARFAESI Act does not warrant production of original documents for verification, without considering the explanation of the petitioner, the learned Magistrate exceeded the jurisdiction and returned the petition twice for production of original documents, ignoring the fact that he has to only assist the secured creditor in taking physical possession of the secured asset. He further submitted that the original documents are filed before the Debts Recovery Tribunal. Thus, he prayed to set aside the impugned docket orders.



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6. We find force in the aforesaid contentions of the learned counsel for the petitioner. Accordingly, the impugned docket orders made in CRL MP filing No.12626/2022 on the file of the Chief Judicial Magistrate, Dindigul, dated 06.08.2022, 01.11.2022, 21.11.2022 are set aside. We direct the petitioner to re-present the petition filed under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Dindigul, within a period of two weeks from the date of receipt of a copy of this order. On such re-presentation, the learned Chief Judicial Magistrate, Dindigul, is directed to take the petition in CRL MP filing No.12626/2022 on file, without insisting upon production of original documents for verification, and number the same, if the papers are otherwise in order. Registry is directed to return the original petition filed along with this revision to the learned counsel for the petitioner after getting attesting copies of same.

7. With the above direction, the Civil Revision Petition is allowed.

No costs.

[D.K.K.,J.] & [R.V.,J.]
11.01.2023

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

The Chief Judicial Magistrate,
Dindigul.



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CRP(MD)No.74 c

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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ORDER MADE IN
CRP(MD)No.74 of 2023
DATED : 11.01.2023