



W.P.(MD) No.28213 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2023

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD) No.28213 of 2023

and

W.M.P.(MD) Nos.24283 & 24285 of 2023

S.Chandramouly

... Petitioner

-VS-

The Authorized Officer
State Bank of India
Muttakad Branch
Sree Moogambika Complex
Muttakad Junction
Kumarapuram
Kanyakumari District-629 804

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records in CrI.M.P.No.14084 of 2023, pending on the file of Chief Judicial Magistrate, Nagercoil, dated 18.11.2023 and quash the same as illegal.

For Petitioner : Mr.G.Cenil

For Respondent : Mr.N.Dilip Kumar



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ORDER

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

We have heard Mr.G.Cenil, learned counsel, for the petitioner and Mr.N.Dilip Kumar, learned counsel, for the respondent – Bank.

2. The petitioner assails the order passed by the learned Chief Judicial Magistrate under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter, referred to as “the SARFAESI Act”).

3. Learned counsel for the petitioner submits that the impugned order was passed during the subsistence of the order of stay granted by the Debts Recovery Tribunal in I.A.No.224 of 2021 in S.A.No.52 of 2021. The learned Chief Judicial Magistrate ought not to have proceeded with the matter.

4. Learned counsel for the respondent – Bank fairly concedes that the order of stay was in operation when the learned Chief Judicial Magistrate passed the order under Section 14 of the SARFAESI Act.



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5. The order of the Debts Recovery Tribunal was directing the respondent – Bank not to proceed with the SARFAESI proceedings. It is submitted that the office file of the respondent – Bank was transferred from one section to another section and the factum of stay was not brought to the notice of the learned Chief Judicial Magistrate.

6. Be that as it may, since the impugned order was passed during the subsistence of the order of stay, wherein the Debts Recovery Tribunal refrained the respondent – Bank from proceeding further with the SARFAESI proceedings, the impugned order is quashed and set aside. The impugned order is quashed and set aside only on the technical ground that the same was passed during the subsistence of the order of stay.

7. The application filed before the learned Chief Judicial Magistrate is deemed to be pending. The same would be subject to the further order that would be passed by the Debts Recovery Tribunal in the pending application.



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8. The writ petition, accordingly, stands disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

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

[L.V.G., J.]

30.11.2023

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

krk

To:
The Chief Judicial Magistrate,
Nagercoil.



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THE HONOURABLE CHIEF JUSTICE
and
L.VICTORIA GOWRI, J.

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