



W.P.(MD)No.31243 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**W.P.(MD)No.31243 of 2023
and
W.M.P.(MD)Nos.26768 and 26769 of 2023**

G.Nirmalan

... Petitioner

-VS-

The Authorized Officer,
Indian Overseas Bank,
Charottikonam Branch,
KPD XIV 138, Charottikonam,
Plamoottukada Post,
Thiruvananthapuram-695 122

... Respondent

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order in CrI.M.P.No.14163 of 2023, dated 23.11.2023 on the file of the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil and quash the same as illegal and consequently direct the respondent restore the possession of the property in original possession.

For Petitioner : Mr.Muralisankar

For Respondent : Mr.N.Dilipkumar



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ORDER

[Order of the Court was made by RMT.TEEKAA RAMAN, J.]

This Writ Petition is filed to quash the impugned order passed in Crl.M.P.No.14163 of 2023, dated 23.11.2023 by the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil and further, to direct the respondent to restore the possession of the property in original possession.

2. The learned counsel for the petitioner stated that the decree has been passed by the Debts Recovery Tribunal, Ernakulam and pursuant to the order passed in the said Debts Recovery Tribunal, the Recovery Officer attached the property and moved an application before the learned Chief Judicial Magistrate, Kanniyakumari at Nagercoil, where, the property is situated under Section 14 of the SARFAESI Act. By an order dated 23.11.2023, the same was allowed and this writ petition is filed challenging the jurisdiction of the learned Chief Judicial Magistrate, Kanniyakumari at Nagercoil on the ground that only the District Magistrate has a power and the learned Chief Judicial Magistrate has not a power. However, we are not in a position to appreciate the contention. As a matter has been settled by the Hon'ble Supreme Court of India in ***Authorised Officer, Indian Bank Vs. D.Visalakshi and another*** reported in ***(2019) 20 SCC 47***, wherein, the



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Hon'ble Supreme Court held that in respect of Section 14 of SARFAESI Act, the learned Chief Judicial Magistrate of the concerned District is having power and hence, we do not find any merits in entertaining the case.

3.Mr.N.Dilipkumar, learned counsel takes notice on behalf of the Bank would state that the bank has taken possession of the proeprty on the strength of the order passed by the learned Magistrate on 19.12.2023 and hence, the prayer in the writ petition has become infructuous.

4.We are not in expressing any opinion, however, leaving it open to the petitioner to agitate the matter in accordance with law before the Debts Recovery Tribunal at Ernakulam if he so advised.

5.In view of the same, this Writ Petition is dismissed as infructuous. No costs. Consequently, connected miscellaneous petitions are closed.

[T.K.R., J.] [P.B.B., J.]

22.12.2023

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