



WP No.10904 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

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R.Velu

: Petitioner

versus

- 1.Union Bank of India,
Asset Recovery Branch,
816, Oppanakara Street,
Coimbatore 641 001
- 2.R.N.Fabricators,
rep. By its Partner K.Nagarajan,
Auction Purchaser
No.24, Elayanallore Road,
Meimanthangal Village,
Kungayanallore (PO), Thiruvalam,
Vellore 632 515
- 3.M/s.Sai Chemicals,
333, Nehru Street,
G3, Geetha Building,
Ram Nagar, Coimbatore 641 009
- 4.K.M.Manohar
- 5.R.Muvendran
- 6.K.Krishnan

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7.P.Gurunathan

8.Rajith M.

9.Sathish Babu Nagarajan : Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records passed in CrI.M.P.No.8056 of 2022 dated 30.11.2022 on the file of the Chief Judicial Magistrate, Dharmapuri and quash the same and consequently direct the respondents to re-deliver the physical possession of the schedule property.

For Petitioner : Mr.Jayesh B.Dolia,
for Ms.N.Varsha

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Jayesh B.Dolia, learned Senior Counsel for the petitioner.

2. The petitioner is challenging the order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act of 2002').



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3. It is submitted that the land in question is an agricultural land. Therefore, the provisions of the Act of 2002 do not apply. It is further submitted that on 19.04.2022, learned Chief Judicial Magistrate, Dharmapuri, has passed an order under Section 14 of the Act of 2002. An Advocate Commissioner was appointed to execute the order. The Advocate Commissioner submitted a report stating that the land in question is an agricultural land and as such, did not execute the order. The petitioner has challenged the order of the Chief Judicial Magistrate by filing securitisation application before the Debts Recovery Tribunal. It is further submitted by learned Senior Counsel that suppressing the earlier order passed by the Chief Judicial Magistrate dated 19.04.2022, and the report of the Advocate Commissioner to the effect that the land in question is an agricultural land, the bank had again filed an application under Section 14 of the Act of 2002, after the earlier Chief Judicial Magistrate was transferred, and again obtained an order under Section 14 of the Act of 2002, dated 30.11.2022. The petitioner is challenging the said order dated 30.11.2022.

4. It is contended by learned Senior Counsel for the petitioner that possession has already been taken by the respondent, after the



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sale of the property. Challenge to the order passed under Section 14 of the Act of 2002 is already pending before the Debts Recovery Tribunal.

5. In light of that, it would not be appropriate to entertain the writ petition. If no proceedings would have been filed before the Debts Recovery Tribunal and if the order, on the face of it, would have depicted the land to be an agricultural land, then this Court would have considered the grievance of the petitioner. However, as the order is already executed and the petitioner has already availed the remedy before the Debts Recovery Tribunal, the petitioner may prosecute the remedy available before the Debts Recovery Tribunal.

6. In that event, all contentions are kept open. The writ petition stands disposed of. There shall be no order as to costs. Consequently, WMP No.12009 of 2024 is closed.

(S.V.G., CJ.)

(J.S.N.P., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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