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WP.No.13635/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.13635/2024 & WMP.Nos.14794 & 14796/2024

T.Sasikumar

... Petitioner

Vs.

1.Tamil Nadu Mercantile Bank Ltd
Sriperumbudur Branch
rep. By its Authorised Officer
Chennai Region, No.45, Pulla Avenue
Shenoy Nagar, Chennai 600 030.

2.Mrs.Kousalya

3.The Registrar

Debt Recovery Tribunal-3
Sashtri Bhavan Chennai 600 034.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of mandamus forbearing the 1st respondent from proceeding with the taking up of the possession of the mortgaged property with building an extent of 900 sq.ft., situated at Door No.42, Bajanai Koil Street, Madura



WP.No.13635/2024

Sivanthangal Village, Sriperumbudur Taluk, comprised in S.No.1654/8B till the numbering and hearing of the petitioner's SA.filing No.9361/2023 by the Debt Recovery Tribunal, Chennai the 3rd respondent herein.

For Petitioner : Ms.G.Devi
For Respondents : Mr.P.Tamilavel for R1
Mr.M.V.Athi Seshan for R2
R3-Tribunal

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1) Mr.P.Tamilavel, learned counsel accepts notice on behalf of the 1st respondent and Mr.M.V.Athi Seshan, learned counsel accepts notice on behalf of the 2nd respondent.
- (2) The present writ petition has been filed seeking for issuance of a writ of mandamus forbearing the 1st respondent from proceeding with the taking up of the possession of the mortgaged property with building an extent of 900 sq.ft., situated at Door No.42, Bajanaikoil Street, Madura Sivanthangal Village, Sriperumbudur Taluk, comprised in S.No.1654/8B till the numbering and to further direct the 3rd respondent to dispose of the petitioner's SA.filing No.9361/2023.
- (3) The petitioner admits borrowal of a sum of Rs.12 lakhs in the year 2019



WP.No.13635/2024

WEB COPY

and a further sum of Rs.8 lakhs for the development of his business from the 1st respondent/Bank. It is now admitted before this Court that the petitioner's property has been brought for sale and the sale had taken place. The 2nd respondent reports that a Sale Certificate was issued to her on 23.06.2023 itself. Thereafter, the petitioner filed a writ petition for issuance of a writ of mandamus restraining the 1st respondent / Bank from proceeding further by taking steps for possession of the property. It is also admitted before this Court that 1st respondent / Bank has filed an application for possession under Section 14 of SARFAESI Act before the learned Chief Judicial Magistrate, Chengalpattu and an order was obtained on 20.03.2024. It is in the stated circumstances, the petitioner's prayer cannot be considered.

(4)First of all, the petitioner has an effective alternative remedy of approaching the Debts Recovery Tribunal and the petitioner has already filed an application. There cannot be a parallel remedy in this proceedings. Further, it is admitted that the property has now been sold in favour of the 2nd respondent and the 2nd respondent has also obtained the Sale Certificate on 23.06.2023. In the said circumstances, the



WP.No.13635/2024

petitioner's present writ petition cannot be entertained.

WEB COPY

(5) Giving liberty to the petitioner to challenge the sale in the manner known to law and to prosecute the SARFAESI application which the petitioner had already filed before the Tribunal, this writ petition stands **dismissed**.

No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [N.S., J.]
24.06.2024

AP

Internet : Yes

To

1. Authorised Officer
Tamil Nadu Mercantile Bank Ltd
Sriperumbudur Branch
Chennai Region, No.45, Pulla Avenue
Shenoy Nagar, Chennai 600 030.

2. The Registrar
Debt Recovery Tribunal-3
Sashtri Bhavan Chennai 600 034.

S.S. SUNDAR, J.,
and



WEB COPY



WP.No.13635/2024

N.SENTHILKUMAR, J.,

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WP.No.13635/2024

24.06.2024