



WEB COPY



WP.No.14956 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.14956 of 2024
WMP.No.16248 of 2024

T.Premavathi

Petitioner

Vs

1. The Branch Manager, Indian Bank, Peelamedu, Coimbatore 641006
2. The Authorised Officer, Indian Bank, Singanallur, Coimbatore 641005
3. Kumaresh
4. M/s.Arunodhya Exports and Imports by is Proprietor
N.Thangavel, Peelamedu, Coimbatore 641004

5. N.Thangavel

Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the order dated 15.04.2024 passed in CrI.MP.No.40439 of 2023 by the Chief Judicial Magistrate, Coimbatore and to quash the same, as illegal and arbitrary.

For Petitioner : Mr.P.Tamilavel

ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

1. This Writ Petition is filed to issue a Writ of Certiorari to call for the records relating to the order dated 15.04.2024 passed in CrI.MP.No.40439 of 2023



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by the Chief Judicial Magistrate, Coimbatore and to quash the same, as illegal and arbitrary.

2. This Court heard learned counsel for the Petitioner.
3. The Petitioner himself admits that as against the first sale notice, he has preferred a statutory application under Section 17 of the SARFAESI Act before the Debt Recovery Tribunal. It is further admitted by the Petitioner himself that the conditional order passed by the Debt Recovery Tribunal for granting interim order was not complied with. Thereafter, the second sale notice was published and after publication of the second sale notice by the Respondent Bank, the Petitioner has filed its application under the SARFAESI Act and it is pending before the Tribunal.
4. When the Respondent Bank has moved an application for taking possession before the Chief Judicial Magistrate, the Chief Judicial Magistrate, in exercise of powers conferred under Section 14 of the SARFAESI Act, has passed an order for taking physical possession of the property. This is challenged only on the ground that the financial assistance rendered by the Respondent Bank comes under the CGTMS scheme where the entire outstanding is guaranteed by the Government itself. Stating that the Respondent Bank ought not to have obtained mortgage/security for the loan, the Petitioner has now challenged the proceedings under Section 14 of the said Act. This Court is unable to appreciate the contentions of the Petitioner. The Petitioner cautiously executed the mortgage to cover the debts. However, we are not inclined to decide such contentious issues in this Writ



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Petition. It is open to the Petitioner to challenge the order before the Debt Recovery Tribunal on any ground since the Petitioner has an alternative and efficacious remedy in approaching the Debt Recovery Tribunal. Hence, this Court is not inclined to entertain this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected WMP is closed.

(S.S.S.R.J.) & (N.S.J.)
07.06.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
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S.S.SUNDAR, J.
and
N.SENTHILKUMAR, J.

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