



WEB COPY



CrI.O.P.No.13541 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.13541 of 2024

S.K.Jeevanantham

... Petitioner

Vs.

1.Indian Bank
Rep.by its Authorized Officer,
4th Floor, No.55, Ethiraj Salai,
Egmore, Chennai-600 008.

2.G.Gopalakrishnan
Prop.M/s.G.K.Movie Land
Respondents

...

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to issue a direction to the learned Chief Judicial Magistrate at Chengalpattu to number the petition filed by the petitioner herein on 06.04.2024 in CrI.M.P.Sr.No.1261 of 2024 proceed with the same in accordance with law.

For Petitioner : Mr.S.Ruban Prabu

ORDER

The petitioner herein claiming that the Advocate Commissioner appointed by the Chief Judicial Magistrate, Chengalpattu in



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C.M.P.No.867 of 2011, instead of taking possession of the property shown in the schedule, is making an attempt to take the possession of his property which is adjacent to the schedule mentioned property. He has filed CrI.M.P Petition before the Chief Judicial Magistrate, Chengalpattu stating this fact and sought for suitable direction to the Advocate Commissioner, direct him to take possession of an extent of property mentioned in the warrant and not more than that. This application not been numbered and returned with an endorsement stating that C.M.P.No.867 of 2011 was disposed as early as 31.07.2023 and therefore, the petition is not maintainable.

2. The learned counsel appearing for the petitioner states that the warrant issued to the Advocate Commissioner to take possession vide order dated 31.07.2023 in C.M.P.No.867 of 2011 not been executed, since his attempt to take above the extent of land mentioned in the warrant been objected by the petitioner. Therefore, to avoid a similar incident be repeated, he wants direction to the Advocate Commissioner appointed by the Chief Judicial Magistrate.



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3. However, his application not been numbered, this Court on hearing the counsel and on perusing the records finds that the apprehension of the petitioner that the Advocate Commissioner appointed by the Chief Judicial Magistrate under SARFAESI Act may take possession of his property which does not cover under the schedule. This apprehension itself unfound. When the petitioner himself admits that the attempt of the Advocate Commissioner to take possession of the property which is not mentioned in the schedule been objected and he recorded the same and had not executed the warrant.

4. The Chief Judicial Magistrate rightly not entertained this petition which is vague and without any material to substantiate. The bank, which has taken mortgage of a particular property with specific boundaries and schedule, cannot have a right more than what they have secured for the loan advanced. A preventive attempt of the neighbour alleging that his property may also be attached cannot be entertained either by this Court or by the Chief Judicial Magistrate. If there is any material of wrongful attachment of his property, the petitioner can

Dr.G.JAYACHANDRAN,J.

rpl



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approach appropriate Court and not before this Court directly. Hence this

Criminal Original Petition is dismissed.

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Index : Yes/No

Neutral Citation : Yes/No

rpl

To

The Chief Judicial Magistrate, Chengalpattu

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