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W.P.No.17294 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.17294 of 2024

Mohammed Barkathullah
S/o Mr.Mohammed Eliyas

.. Petitioner

v.

1. Karur Vysya Bank
rep.by its Authorised Officer – Chief Manager
Mr.P.S.Sundaravathanan
Asst. Recovery Branch
2nd Floor, No.1, Padmavathiar Road
Off Peters Road, Gopalapuram
Chennai 600 086
2. The Tahsildar
O/o the Tahsildar
Sriperumbudur Taluk
Kanchipuram 602 105
3. The Inspector of Police
O/o the Inspector of Police
T-14, Mangadu Police Station
Mangadu, Chennai 600 122



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4. M/s Marwa Firms
rep.by its Sole Proprietrix Mrs.A.Noorul Ayn
Having office at
No.2/105, Mount Poonamallee Main Road
Kattupakkam, Chennai 600 056

5. Mrs.A.Noorul Ayn

6. Mr.M.Z.Anwar Basha

7. Mr.Idhayathulla

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call the entire records relating to the impugned order dated 16.05.2024 passed in CMP No.879/2024 in CNR No.TNKP030012472024 by the Chief Judicial Magistrate, Chengalpet and quash the same and consequentially direct the respondents to refrain from any manner interfering with the peaceful possession of the petitioner over the property in Thiruvalluvar City, Phase I, Korimedu Malligai Apartment, S-1, 2nd Floor, Poonamallee, Chennai 600 056.

For Petitioner :: Mr.R.Gopinath

For Respondents :: Mr.P.Raghunathan for
M/s T.S.Gopalan & Co. for R1
Mr.R.Vigneswaran
Government Advocate for R2
Mr.R.Muniyapparaj
Addl. Public Prosecutor for R3

ORDER

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

The petitioner challenges the order passed by the learned Chief



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Judicial Magistrate, Chengalpet under Section 14 of the SARFAESI Act in this writ petition. The petitioner has not placed any material, except the unregistered and unstamped lease agreement dated 16.06.2016 to show the petitioner's enjoyment as a tenant. An unregistered and unstamped document is not admissible in evidence to prove the case of petitioner that he is in possession under a valid lease agreement. Assuming for a moment that the petitioner is a tenant who is in possession, the petitioner has an effective alternative remedy under Section 17(4-A) of the SARFAESI Act.

2. The learned counsel appearing for petitioner submitted that the first respondent-Bank has obtained an order under Section 14 of the SARFAESI Act after collecting the entire money payable to the bank under the mortgage. The counsel submitted that the bank, after recovery of money due by selling the assets, has no interest in the security and therefore the exercise of power under Section 14 of the SARFAESI Act is fraudulent. This submission is not supported by any statutory provision or any equitable principle, as the respondent Bank as secured creditor is under a legal obligation to make good the title of auction purchaser. For the present we



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are not expressing any opinion to bind the parties.

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3. In view of the alternative remedy available to the petitioner under the statute, leaving it open to the petitioner to raise all his contentions before the appropriate forum, this writ petition is dismissed. Consequently, W.M.P.Nos.19083 to 19085 of 2024 are also dismissed. No costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

01.07.2024

SS

To

1. The Authorised Officer – Chief Manager
Karur Vysya Bank - Asset Recovery Branch
2nd Floor, No.1, Padmavathiar Road
Off Peters Road, Gopalapuram
Chennai 600 086

2. The Tahsildar
O/o the Tahsildar
Sriperumbudur Taluk
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