



W.P.No.28072 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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K.K.SRIKANTH

.. Petitioner

Vs

1. THE CHIEF MANAGER AND AUTHORIZED OFFICER
INDIAN OVERSEAS BANK,
PURASAWALKAM BRANCH,
NO.15, HUNTERS ROAD,
PURASAWALKAM, CHENNAI - 600112.

2. VAKISAN
3. DEIVANAI

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent bank to pay the lease amount of Rs.50,00,000/- (Rupees Fifty Lakh only) either by themselves or on behalf of respondent 2 and 3 to get physical possession of the residential plot, wherein the petitioner is residing.

For the Petitioner : Mr.V.Jayachandran

ORDER



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(Order of the Court was made
by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition seeking issuance of a writ of mandamus directing the first respondent bank to pay the lease amount of Rs.50,00,000/- (Rupees Fifty Lakh only) either by themselves or on behalf of respondent 2 and 3 to get physical possession of the residential plot, wherein the petitioner is residing.

2. Learned counsel for the petitioner submits that the petitioner entered into a registered lease agreement with respondents 2 and 3 in respect of the secured asset on payment of an amount of Rs.50 lakh and the private respondents concealed the fact that they had availed a housing loan by mortgaging the secured asset. As respondents 2 and 3 defaulted in payment of the loan amount, the loan account was declared as non-performing asset and the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 were initiated and, ultimately, the order under Section 14 of the Act was passed by the Chief Judicial Magistrate, Chengalpattu, on



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8.8.2024. It is submitted that the first respondent/bank suppressed the execution of the registered lease agreement and obtained the order under Section 14 of the Act behind the back of the petitioner.

3. SARFAESI Act is a self-contained code providing effective and efficacious remedy to any person aggrieved by the proceedings initiated under Section 13 of the Act. It is also well-settled proposition that an action under Section 14 of the Act constitutes an action after the stage of Section 13(4) of the Act and, therefore, the same would fall within the ambit of Section 17 of the Act. Section 17(4-A) of the Act postulates that any person asserting leasehold rights on the secured asset has an efficacious remedy before the Debts Recovery Tribunal. Thus, the Act not only facilitates creation of special machinery for speedy recovery of dues of banks and financial institutions, but equally provides an adequate remedy to those who are in possession of the secured asset - either as tenants or lessees. The question as to whether a lawful lease was created before the borrower pledged the properties by depositing title deeds or whether the borrower had secured the consent of secured creditor



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while leasing the secured asset in favour of lessee are all questions to be examined by the the Debts Recovery Tribunal under Section 17(4-A) of the Act.

4. In view of the availability of the effective and efficacious alternative remedy, we are not inclined to entertain the writ petition. The writ petition is, accordingly, dismissed. There shall be no order as to costs. Consequently, W.M.P.No.30621 of 2024 is closed.

(D.K.K., ACJ.) (P.B.B, J.)
23.09.2024

Index : Yes/No
NC : Yes/No
sasi

To:
THE CHIEF MANAGER AND AUTHORIZED OFFICER
INDIAN OVERSEAS BANK,
PURASAWALKAM BRANCH,
NO.15, HUNTERS ROAD,
PURASAWALKAM, CHENNAI - 600112.



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THE HON'BLE ACTING CHIEF JUSTICE
AND
P.B.BALAJI, J.

(sasi)

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