



WEB COPY

W.P.No.27



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM:

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

AND

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

W.P.No.27205 of 2024 and
W.M.P.No.29708 of 2024

M/s.Royal Women's Hostel,
No.18, Natesan Street, T.Nagar,
Chennai-600 017,
Rep. by its Proprietor,
Mr.D.Jayachandran

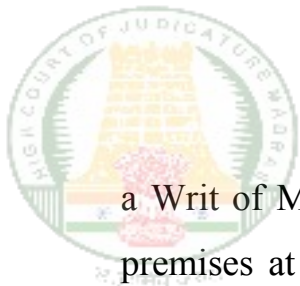
... Petitioner

-VS-

1. The Recovery Officer,
Debts Recovery Tribunal-III,
Shastri Bhavan, Nungampakkam,
Chennai-600 006.
2. The Chief Manager,
State Bank of India,
Asset Recovery Management Branch,
No.44, Eldams Road, 1st Floor,
Teynampet, Chennai-600 018.
3. N.Srinivasan
4. Ms.B.Bhairavi
(Advocate Commissioner)
No.47, 1st Block,
Kaviarasu Kannadasan Nagar,
Kodungaiyur, Chennai-600 118.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of



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a Writ of Mandamus, forbearing the respondents from evicting the petitioner from the premises at No.18, Natesan Street, T.Nagar, Chennai-600 017, without following due process of law, on the basis of the order passed by the 1st respondent in TRC No.21 of 2023 dated 20.07.2024.

For Petitioner : Mr.V.P.Senguttuvel, Senior Counsel
For Mr.V.Vasanthakumar

ORDER

(By the Hon'ble Acting Chief Justice)

This Writ Petition has been filed to forbear the respondents from evicting the petitioner from the premises at No.18, Natesan Street, T.Nagar, Chennai - 600 017, without following due process of law, on the basis of the order passed by the 1st respondent in TRC No.21 of 2023 dated 20.07.2024.

2. Notice to the respondents is dispensed with, as no adverse order is going to be passed against them in this petition.

3. It is the case of the petitioner that the petitioner-hostel run by one Mr.D.Jayachandran had been leased out for rent and pursuant to the default committed by the 3rd respondent / owner of the building, the 1st respondent ordered for taking



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physical possession of the property by appointing an Advocate Commissioner without due process of law. The 4th respondent / Advocate Commissioner has been trying for forcible dispossession of the petitioner-hostel in respect of an alleged loan recovery proceedings without hearing the petitioner, which is in violation of principles of natural justice. Hence, the petitioner-hostel has filed the instant writ petition.

4. The Apex Court in the case of **Phoenix ARC Private Limited v. Vishwa Bharati Vidya Mandir and others, (2022) 5 SCC 345**, after taking note of various earlier decisions deprecated the practice adopted by the High Courts whereby the writ petitions are being entertained as against proceedings initiated by the secured creditor, observing that relief under Article 226 of the Constitution of India is not available if an efficacious alternative remedy is available to any aggrieved person.

5. In this case, the petitioner has an alternative remedy under Section 30 of The Recovery of Debts Due To Banks And Financial Institutions Act, 1993 and without exhausting such remedy, it is impermissible for the petitioner to straightaway approach this Court. Therefore, we are not inclined to entertain the instant Writ Petition.

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



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6. Accordingly, this ***Writ Petition is dismissed*** with liberty to the petitioner

to approach the appropriate Forum in the manner known to law. Two weeks' time is granted to the petitioner to prefer an appeal before the appropriate Forum and till such time, the respondents concerned shall not take any coercive action against the petitioner-hostel. Registry is directed to return the original papers, if any to the petitioner forthwith after retaining xerox copies of the same. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,ACJ.]

[P.B.B,J.]

11.09.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

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Note: Issue order copy on 12.09.2024

1. The Recovery Officer,
Debts Recovery Tribunal-III,
Shastri Bhavan, Nungampakkam,
Chennai-600 006.
2. The Chief Manager,
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Asset Recovery Management Branch,
No.44, Eldams Road, 1st Floor,
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