



W.P.(MD) No.117 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.117 of 2024

and

W.M.P.(MD)No.147 of 2024

R.Vaishali

... Petitioner

Vs.

1. Authorized Officer ,
City Union Bank Limited,
Credit Recovery and Management Department,
Dept. CRMD,
“NARAYANA” Administrative Office,
No. 24-B, Gandhi Nagar,
Kumbakonam – 612 001.

2. The Branch Manager,
City Union Bank Limited,
Virudhunagar Branch,
102, Kutchery Road,
Virudhunagar - 626 001.



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3.M/s. Ma.Palanichamy Nadar Sons and Co.,
Rep. by its Partner Mr. R. Palanichamy,
No. 284, Theppam South Bazar,
Virudhnagar 626 001.

4.R.Palanichamy

5.Sugithamalar

6. Premavathi

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned demand Notice under section 13(2) of Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, (SARFAESI ACT) dated on 02.11.2023 of the 1st respondent and quash the same as devoid on merits consequently direct the respondents 1 and 2 to return the original will in document No. 132/2009 on the file of the joint sub register II, Virudhunagar dated 18.11.2009 in respect of the property in Virudhunagar Town, Survey Ward No. 19, Sivanthipuram 1st Lane T.S.No. 354/1 and 354/3 east facing building bearing Old Door No.14, New Door No.14/2 and with vacant land bearing T.S.No.354/2B by considering the petitioner's readiness and willingness to pay the loan amount.



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For Petitioners : Mr.S.Selvakumar

For Respondents : Mr.V.S.Karthi for R1 & R2

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed seeking for issuance of a Writ Certiorarified Mandamus, to call for the records in pursuant to the impugned demand Notice under section 13(2) of Secularization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, (SARFAESI ACT) dated on 02.11.2023 of the 1st respondent and quash the same as devoid on merits consequently direct the respondents 1 and 2 to return the original will in document No. 132/2009 on the file of the joint sub register II, Virudhunagar dated 18.11.2009 in respect of the property in Virudhunagar Town, Survey Ward No. 19, Sivanthipuram 1st Lane T.S.No. 354/1 and 354/3 east facing building bearing Old Door No.14, New Door No.14/2 and with vacant land bearing T.S.No.354/2B by considering the petitioner's readiness and willingness to pay the loan amount.



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2. Heard Mr.S.Selvakumar, learned counsel for petitioner and Mr.V.S.Karthi, learned counsel, who accepts notice for respondents 1 and 2. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the respondents 3 to 6 is dispensed with.

3. By consent, this Writ Petition is taken up for final disposal at the admission stage itself.

4. The learned counsel appearing for the petitioner submitted that the petitioner has extended his willingness to pay the loan amount by notice through his counsel. However, the first respondent issued the impugned demand notice under Section 13(2) of the SARFAESI Act, without providing loan details and statements of accounts. Hence, the impugned order is liable to be set aside.

5. As per Section 13 (3-A) of the SARFAESI Act, the petitioner is at liberty to make representation or raise objection with respect to the notice issued



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under subsection 13(2) of the SARFAESI Act. Therefore, we are not inclined to entertain this Writ Petition.

6. Accordingly, this Writ Petition is dismissed. It is open to the petitioner to make representation or raise objection with respect to the impugned notice issued by the first respondent dated 02.11.2023, if so desired. If any such representation or objection is filed, the respondents 1 and 2 shall consider the same in accordance with law and communicate the decision taken to the petitioner. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]

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Neutral Citation: Yes / No
Index : Yes / No

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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

vsm

To

- 1.The District Collector,
Sivagangai District.
- 2.The Revenue Divisional Officer,
Sivagangai, Sivagangai District.
- 3.The Superintendent of Police,
Sivagangai District.
- 4.The Deputy Superintendent of Police,
Sivagangai Sub Division,
Sivagangai District.
- 5.The Inspector of Police,
Sivagangai Taluk Police Station,
Sivagangai District.

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