



W.P.(MD)No.2043 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

W.P(MD)No.2043 of 2023

Indian Bank,
Pudupatti Branch,
Ponnamaravathi,
Pudukottai District,
represented by its Chief Manager.

... Petitioner

VS

1.The Superintendent of Police,
Pudukottai District.

2.The Inspector of Police,
Ponnamaravathi Police Station,
Pudukottai, Pudukottai District.

3.G.Sathyamoorthy,
Proprietor, M/s.Atchaya Pattu Maligai,
Pudukottai District.

4.S.Senthamarai Selvi

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second Respondent to re-possess the secured asset in favour of the petitioner Bank from the 3rd and 4th



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Respondents by complying the order passed in Crl.M.P.No.402 of 2022, dated 15.06.2022 on the file of the Chief Judicial Magistrate, Pudukkottai obtained under Section 14 of the SARFAESI Act within the time limit stipulated by this Court.

For Petitioner : Mr.M.Manikandan
For R1 and R2 : Mr.S.S.Madhavan
Government Advocate
For R3 and R4 :No Appearance

ORDER

(Order of this Court was made by **G.ARUL MURUGAN, J.**)

The petitioner/Bank, the secured creditor had approached this Court for a direction to direct the second Respondent to re-possess the secured asset in favour of the petitioner/Bank from the third and fourth respondents by complying with the order passed in Crl.M.P.No.402 of 2022, dated 15.06.2022 on the file of the Chief Judicial Magistrate, Pudukkottai, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act”).



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2.The third and fourth Respondents, who are doing business in the name and style of “M/s.Atchaya Pattu Maligai”, had availed a cash credit facility to the tune of Rs.1,16,00,000/- in the year 2016 by mortgaging the properties. Since there were defaults in the re-payment of loan, the account was classified as non performing asset in the year 2020. Pursuant to which, notice under Section 13(2) of SARFAESI Act was issued and since payments were not made, symbolic possession of the property was taken under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act”) on 13.12.2021.

3.Thereafter, the petitioner/Bank had filed a petition under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Pudukottai in CrI.M.P.No.402 of 2022 and by order, dated 15.06.2022, an Advocate Commissioner was appointed to assist the petitioner to take physical possession. When the petitioner/Bank along with the Advocate Commissioner went to take physical possession of the property, the third and fourth respondents threatened and made a promise to make payment, but, however, filed a Writ Petition before this Court in W.P.(MD)No.26097



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of 2022 challenging the order passed under Section 14 of the SARFAESI Act, wherein, an order interim stay was granted on condition to pay a sum of Rs.40,00,000/- within a period of one month. Since the interim order was not complied with, pursuant to the order passed by the learned Chief Judicial Magistrate, Pudukottai, under Section 14 of the SARFAESI Act, with the assistants of the Police, the possession was taken and handed over to the petitioner/Bank on 19.12.2022. However, the third and fourth Respondents has trespassed into the property for which, the petitioner had lodged a complaint and a case in Cr.No.303 of 2022 was registered on the file of the second respondent for the offences punishable under Sections 447, 448, 453 and 427 of IPC. As no further action was taken, the petitioner has approached this Court.

4.Pursuant to the orders obtained by the petitioner/Bank under Section 14 of the SARFAESI Act, on 15.06.2022 in CrI.M.P.No.402 of 2022 before the learned Chief Judicial Magistrate, Pudukottai, the petitioner/Bank along with the Advocate Commissioner and the Police executed the orders passed under Section 14 of the SARFAESI Act, whereby, the possession of the property was taken and handed over to the



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petitioner/Bank on 19.12.2022. As such, the proceedings under the SARFAESI Act came to an end, whereby, the petitioner/Bank was put in possession of the property. If subsequently, the third and fourth Respondents had trespassed into the property, it is for the petitioner to take appropriate proceedings and admittedly, now based on the complaint, a case in Cr.No.303 of 2022 has been registered on the file of the second respondent against the third and fourth respondents. As already necessary action has been taken and a case has been registered against the third and fourth respondents, no further orders are necessary. It is for the petitioner to work out their remedy in manner known to law.

5.In view of the above, the Writ Petition stands dismissed. No costs.

[R.S.K., J] & [G.A.M., J]
01.04.2024

Internet :Yes/No
Index :Yes/No
NCC :Yes/No
cmr

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WEB COPY

To

- 1.The Chief Judicial Magistrate, Pudukkottai
- 2.The Superintendent of Police,
Pudukkottai District.
- 3.The Inspector of Police,
Ponnamaravathi Police Station,
Pudukkottai, Pudukkottai District.



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R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

cmr

Order made in
W.P(MD)No.2043 of 2023

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