



W.P.(MD) No.3229 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.3229 of 2024
and W.M.P.(MD) Nos.3191 and 3192 of 2024**

C.Seeniyammal

... Petitioner

-VS-

1.Jana Small Finance Bank,
Rep. by its Authorized Officer, N.Vinoth,
Branch Office at No.10,
Krishnapuram Colony Main Road,
Mahatma Gandhi Nagar,
Madurai – 625 014.

2.N.Hariharan

3.H.Ambika

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order, dated 20.12.2023 of the Learned Chief Judicial Magistrate, Madurai in Cr.M.P.No. 692 of 2023 and quash the same as illegal.

For Petitioner : Mr.K.Sathish



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For Respondents : Mr.S.Babu,
Standing Counsel for R1

ORDER

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

This Writ Petition has been filed challenging the order dated 20.12.2023, passed by the Learned Chief Judicial Magistrate, Madurai, in Cr.M.P.No. 692 of 2023.

2. By consent of both sides, the Writ Petition is taken up for final hearing at the time of admission itself. Considering the nature of the order proposed to be passed in this Writ Petition, protecting the interests of the respondents 2 and 3 also, notice to the respondents 2 and 3 is dispensed with.

3. According to the petitioner, the petitioner's husband K.Chandran got the property in question under the “Anumatham Scheme” to landless poor people. He died on 28.09.2002, leaving behind the petitioner, her daughter Amutha and son Santhosh Kumar as his legal heirs. Further, according to her, her son Santhosh Kumar, created a forged gift deed in favour of himself by



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impersonating the signatures of the petitioner and her daughter Amutha and the same was registered as Doc. No.3808 of 2019, on the file of Sub Registrar, Arasaradi, Madurai. Based on the above said gift deed, he availed loan from the first respondent bank and defaulted in repaying the loan. In view of the same, the first respondent bank initiated action under the SARFAESI Act and the impugned order has been passed by the learned Chief Judicial Magistrate, Madurai, appointing Advocate Commissioner, to assist the first respondent to take possession. Hence, the Writ Petition.

4. In this Writ Petition, the petitioner made allegations against her son Santhoshkumar that he created a forged gift deed and obtained loan. We are of the view that these allegations cannot be considered by this Court while exercising the powers under Article 226 of the Constitution of India, for which, the petitioner has to approach either the Debts Recovery Tribunal or the Civil Court to prove that the aforesaid gift deed is a forged one. Therefore, on this aspect, we safely come to a conclusion that the Writ Petition is not maintainable and the remedy of the petitioner is before the Debts Recovery Tribunal or Civil Court and this Writ Petition is liable to be dismissed.



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5. Accordingly, the Writ Petition stands dismissed. No costs.

Consequently, connected Writ Miscellaneous Petitions are closed.

[D.K.K., J.] [R.V., J.]
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Index : Yes / No
Internet : Yes / No
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