



W.P(MD)No.2210 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P(MD)No.2210 of 2016
and W.M.P(MD)No.1923 of 2016**

Anburaj

... Petitioner

vs.

1.The Branch Manager,
The Catholic Syriyan Bank Ltd.,
Tuticorin Branch,
Tuticorin.

2.P.Susela Devi

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the first respondent from disturbing the petitioner's peaceful possession of his residence bearing Door No.2A/3, Krishnarajapuram 6th Street, Tuticorin Taluk, Tuticorin District undue process of law by accepting the petitioner's representation dated 28.12.2015.

For Petitioner : Mr.S.Muthukrishnan

For R - 1 : Mr.R.Pandivel
Standing Counsel

For R - 2 : No appearance



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus, forbearing the first respondent from disturbing the petitioner's peaceful possession of his residence bearing Door No.2A/3, Krishnarajapuram 6th Street, Tuticorin Taluk, Tuticorin District undue process of law by accepting the petitioner's representation dated 28.12.2015.

2.According to the petitioner, he is a lessee of the subject property. The first respondent Bank has issued a sale notice in respect of the subject property. Since the lease period is not over, the petitioner/lessee approached the Bank authorities to keep the proceedings of the sale notice pending till the lease period is over. Since the same has not been considered, the present Writ Petition is filed.



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3.The learned counsel appearing for the first respondent would submit that SARFAESI proceedings has been initiated for non-payment of the loan amount by the borrower and the learned Chief Judicial Magistrate has already passed an order under Section 14 of the SARFAESI Act.

4.On a perusal of the materials available on record, it is seen that the petitioner is not a borrower and he is an usufructuary mortgagee and he is not entitled to challenge the SARFAESI proceedings initiated by the first respondent. Hence, the relief sought for in the present Writ Petition cannot be granted.

5.Accordingly, the Writ Petition is dismissed. However, it is open to the petitioner to work out his remedy in the manner known to law, if he has any remedy. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [M.D.I.,J.]
11.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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and
M.DHANDAPANI,J.

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