



WP(MD). No.24975 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH
AND
THE HONOURABLE Dr.JUSTICE A.D.MARIA CLETE

WP(MD).No.24975 of 2024
and WMP(MD) Nos.21278 and 21279 of 2024 & 23395/2024

Kavitha

... Petitioner

Vs

1. The Indian Bank
Kumbakonam Mutt Street Branch
No.88, Mutt Street, Kumbakonam
Thanjavur District

2.Sridhar

... Respondents

(2nd respondent is suo motu impleaded vide
order dated 22.10.2024 in WMP(MD) No.21506/2024)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in CrI.M.P.No.740 of 2024 dated 24.05.2024 on the file of the Chief Judicial Magistrate, Kumbakonam and quash the same as illegal and consequently direct the 2nd respondent to restructure the petitioner's loan account No.644446844.



WP(MD). No.24975 of 2024

For Petitioner : Mr.B.Micheal Sebastin
For Respondents : Mr.C.Karthick for R1
No appearance for R2

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

Challenging the order passed under Section 14 of the SARFAESI Act by the Chief Judicial Magistrate, Thanjavur, the present writ petition has been filed.

2. When the petitioner has an alternate remedy to approach the Debt Recovery Tribunal, to vent out his grievances, this Court in exercise of its power under Article 226 of the Constitution of India will not ordinarily interfere with such a prayer.

3. In this case, it is also seen that the proceedings under Section 13(2) of the SARFAESI Act has already been initiated on 04.04.2022, which the petitioner has not challenged. Likewise, the subsequent sale notice on 31.07.2024 as well as the auction sale on 21.08.2024 have also not been challenged before the Tribunal. While that being so, mere



WP(MD). No.24975 of 2024

challenge to the order under Section 14 of the SARFAESI Act for handing over of physical possession to the secured creditor alone cannot be sustained. Accordingly, the writ petition stands dismissed. The petitioner shall hand over the physical possession of the property to the secured creditor within a period of one month from the date of receipt of a copy of this order. The petitioner is at liberty to work out his remedy before the Debt Recovery Tribunal. No costs. Consequently connected Miscellaneous Petitions are closed.

[M.S.R.,J]

[A.D.M.C.,J]

22.11.2024

NCC : Yes/No

Index : Yes/No

RR



WEB COPY



WP(MD). No.24975 of 2024

M.S. RAMESH, J.
AND
A.D.MARIA CLETE, J.

RR

ORDER
IN
WP(MD) No.24975 of 2024

Date : 22/11/2024