



W.P.(MD).No.28598 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.12.2024

CORAM

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

W.P.(MD).No.28598 of 2024

M/s.TATA Capital Housing Finance Limited,
Represented by its Authorized Officer,
P.Ramalingam.

... Petitioner

Vs.

The Chief Judicial Magistrate,
Kumbakonam.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the respondent to number and dispose of the application filed under Section 14 of SARFAESI Act for taking physical possession of the property located at Plot No.12, comprised in R.S.Nos.23/1A1, 24/1B, 24/1C1 part, 24/1C2, 24/1C2, 27/2, 28/1C1 part, 28/1C2, 28/1D located at Mahaveer Nagar, Kumbakonam Taluk, Ullur Village in Tanjore District, and Plot No.19 comprised in Ward No.1, T.S.No.58/2, located at Kumbakonam Taluk, Ullur Village, Tanjore District without insisting for the registered Memorandum of Deposit of title deeds/mortgage on representing the application.

For Petitioner : Mr.R.Sreedhar



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ORDER

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

This Writ Petition has been filed for a Mandamus to direct the respondent to number and dispose of the application filed under Section 14 of SARFAESI Act for taking physical possession of the property located at Plot No.12, comprised in R.S.Nos.23/1A1, 24/1B, 24/1C1 part, 24/1C2, 24/1C3, 27/2, 28/1C1 part, 28/1C2, 28/1D located at Mahaveer Nagar, Kumbakonam Taluk, Ullur Village in Tanjore District, and Plot No.19 comprised in Ward No.1, T.S.No.58/2, located at Kumbakonam Taluk, Ullur Village, Tanjore District without insisting for the registered Memorandum of Deposit of title deeds/mortgage on representing the application.

2. When the petitioner Company had preferred an application under Section 14 of the SARFAESI Act before the learned Chief Judicial Magistrate, Kumbakonam, seeking for appointment of an Advocate Commissioner for the purpose of taking physical possession of the mortgaged property, the application was returned on the ground that the property is not a secured asset.



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3. Apparently, the learned Chief Judicial Magistrate is seeking for copy of the Memorandum of Deposit of title deeds from the petitioner for the purpose of substantiating that the property is a secured asset. The production of such a Memorandum of Deposit of title deeds along with application under Section 14 of the Act is not mandatory, which position of law has already been settled by a Coordinate Bench of this Court in the case of ***M/s.India Bulls Housing Finance Limited Vs. The District Collector and others*** passed in ***W.P.(MD).No.20500 of 2019 dated 25.09.2019***. This aspect was brought to the notice of the Registry of Chief Judicial Magistrate Court when the papers were re-presented by the petitioner.

4. When such reasonings have been given and the application was re-presented, there is a duty cast on the Registry to consider the reasonings given while the application was re-presented and pass necessary orders instead of simply returning the papers again and again for compliance of the earlier returns.

5. In the light of the above findings, the Registry of Chief Judicial Magistrate Court shall entertain the petitioner's application and pass



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appropriate orders on the remarks made by the petitioner on 05.07.2024, within a period of two (2) weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

(M.S.R.,J.) (A.D.M.C.,J.)
02.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To
The Chief Judicial Magistrate,
Kumbakonam.



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

Lm

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