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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-08-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**WP No. 30258 of 2025
and WMP No. 33945 of 2025**

M/s. Hotel Mass Private Limited
Rep. by its Chairman and Managing Director,
T.Thiagarajan S/o. Thillaigovindan,
Nos. 152 and 154 Maraimalai Adigal Salai,
Orleanpet Puducherry 605 001

Petitioner(s)

Vs

1. Indian Overseas Bank
Orleanpet Branch, Pondicherry,
Regional Office (0821)
ECR 100 Feet Road, Jansi Nagar
Corner, Pondicherry 605 004

2. Reserve Bank Of India
Fort Glacis, 16 Rajaji Road,
Fort St. George Chennai 600 001

3. M/s. Veepee Estates and Hotels Private Limited
No. 16 ECR Cuddalore Main Road,
Kirumampakkam, Puducherry 607 402

Respondent(s)



PRAYER Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare the initiation of loan recovery proceedings by the first respondent by bringing the property purchased by the third respondent with regard to the loan availed by the third respondent as illegal, unenforceable and unconstitutional as there is a defect in the title and creation of equitable mortgage by virtue of registration of FIR No. RC0692023E0004 by CBI, EOB, Chennai and reporting Fraud to the Reserve Bank of India vide Master Circular dated 01.07.2010 on Frauds - Classification & Reporting by the 1st respondent.

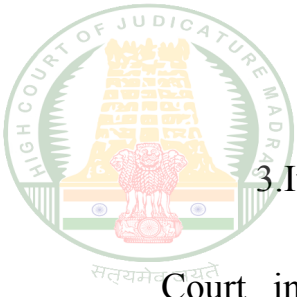
For Petitioner(s): Mr.R.Sreedhar

For Respondent(s): Mr.P.V.Muralidhar
Standing Counsel for R1

ORDER

This writ petition has been filed to declare the initiation of loan recovery proceedings by the 1st respondent Bank by bringing the property purchased by the 3rd respondent for sale as illegal, unenforceable and unconstitutional.

2.Heard Mr.R.Sreedhar, learned counsel appearing on behalf of the petitioner and Mr.P.V.Muralidhar, learned Standing Counsel appearing on behalf of the respondents.



3. It is seen from records that by virtue of the order passed by the Apex Court in Civil Appeal Diary No.38616 of 2018 dated 07.01.2025, the declaration granted by NCLAT by order dated 12.07.2018, declaring the Sale Deed dated 31.10.2011 as not binding, was set aside. The Apex Court also made it clear that they are not adjudicating on the ownership rights claimed by different parties and those parties were directed to seek their remedy before the concerned forum.

4. Pursuant to the above order, the petitioner filed a suit in O.S.No.33 of 2025 seeking for the relief of specific performance. An interim application was also filed in I.A.No.4 of 2025 in O.S.No.33 of 2025 seeking for an order of interim injunction and this application came to be dismissed by an order dated 13.03.2025.

5. Aggrieved by the above order, the petitioner and others have filed CMA No.995 of 2025 before this Court and when the appeal came up for hearing on 02.04.2025, this Court had passed the following interim order.



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2. Taking into consideration the facts and circumstances of the case and also the liberty granted by the Apex Court in Civil Appeal arising out of Diary No.38616 of 2018, dated 07.01.2025, the 10th respondent bank is directed not to confirm the sale. However, auction proceedings may go on.

6.The grievance expressed by the petitioner is that in spite of the above order, the 1st respondent Bank proceeded further to file Crl.M.P. No.1427 of 2025 before the Chief Judicial Magistrate, Puducherry under Section 14(1) of the SARFAESI Act and steps are being taken to take over possession of the property.

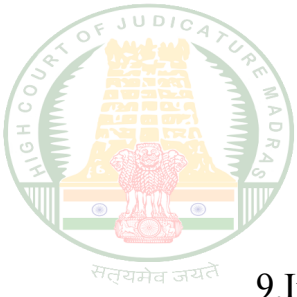
7.In the considered view of this Court, this Court would not have entertained the present writ petition considering the fact that the parties are already before the competent Court agitating their rights. However, there is only one reason as to why this Court was inclined to look into the grievance expressed by the petitioner and that is the interim order that was passed by this Court in CMA No.995 of 2025 dated 02.04.2025. This Court gave liberty to the



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Bank to proceed further with the auction and directed that the sale should not be confirmed. When this Court posed a query to the learned counsel for the 1st respondent Bank as to why they filed an application under Section 14(1) of the SARFAESI Act for possession, the learned counsel submitted that without taking possession of the property, it will not be possible to bring the property for auction. Since this Court had permitted the auction proceedings to go on, the 1st respondent Bank filed the application under Section 14(1) of the SARFAESI Act for taking possession.

8. In the considered view of this Court, some interim protection was granted in the Civil Miscellaneous Appeal and if the 1st respondent Bank wanted to proceed further to take possession of the property, they could have sought for a clarification before the learned Single Judge where CMA No.995 of 2025 is pending. When this was brought to the notice of the learned Standing Counsel for the Bank, he submitted that pleadings are complete and all the papers have been filed and the Bank will go ahead with the case pending in CMA No.995 of 2025.



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9. In the light of the above discussion and after considering the submissions made on either side, it will be more appropriate for the 1st respondent Bank to prosecute the pending appeal in CMA No.995 of 2025 and get the necessary clarification before proceeding further. After the clarification is sought for, it will always be left open to the 1st respondent Bank to proceed further to bring the property for auction sale.

10. This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

11-08-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
ssr

Note: Issue Order Copy on 13.08.2025



To
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8/8

WP No. 30258 of 2



N.ANAND VENKATESH J.

SSR

WP No. 30258 of 2025

11-08-2025