



W.P.(MD)No.4120 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.4120 of 2025

K.Pandurangan

... Petitioner

-VS-

1.Indian Overseas Bank,
Rep. by the Zonal Manager,
Post Box No.31, Plot No. 40,
80 Feet Road,
Arignar Anna Nagar,
Madurai - 625 020.

2.The Branch Manager,
Indian Overseas Bank,
RM Colony Branch,
Dindigul - 624 008.

3.M.Ramkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to pay the entire arrear rent dues to the petitioner from the date of taking possession of the machineries, based on the representation dated 15.11.2023, followed by reminders within a reasonable time to be fixed by this Court.



WEB COPY



W.P.(MD)No.4120 of 2025

For Petitioner : Ms.S.Hemaa

For R1 and R2 : Mr.N.Dilip Kumar
Standing Counsel

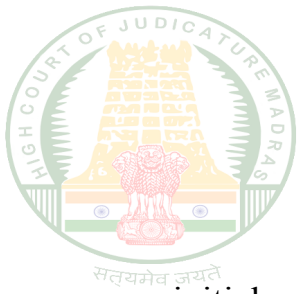
ORDER

This Writ Petition has been filed seeking a direction to the respondents 1 and 2 to pay the entire arrear rent dues to the petitioner from the date of taking possession of the machineries, based on the representation dated 15.11.2023, followed by reminders.

2. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

3. Since no adverse orders are going to be passed against the third respondent, notice to the third respondent is hereby dispensed with.

4. The learned counsel for the petitioner submits that the petitioner is the absolute owner of the property located at Door No.1/60-3, Renganathapuram, Dindigul. The property was leased to the third respondent on 23.08.2017 for commercial purposes, with a lease agreement for a duration of seven years. The

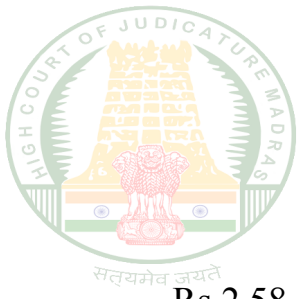


W.P.(MD)No.4120 of 2025

initial rent was fixed at Rs.7,000/-, which increased annually to Rs.12,000/- from 01.08.2022. The third respondent borrowed a loan from the respondents 1 and 2, but defaulted on repayment. Therefore, under the provisions of the SARFAESI Act, the respondents 1 and 2 took possession of the third respondent's machineries for hypothecation on 15.12.2022, by issuing a notice.

5. The learned counsel for the petitioner further submits that respondents 1 and 2 unlawfully occupied the petitioner's premises to keep the hypothecated machinery. The premises were locked and sealed without the petitioner's consent or prior notice, causing a loss of rental income for the petitioner. Despite the second respondent's false promises to pay rent, no rent has been paid for the unauthorized occupation of the property, which resulted in financial loss to the petitioner, who is entitled to compensation for the loss of rental income.

6. The learned counsel for the petitioner further submits that on 27.10.2023 and 30.10.2023, the second respondent took out the machinery from the petitioner's premises using cranes. During the process, damage occurred to the petitioner's property and therefore, the petitioner seeks compensation of



W.P.(MD)No.4120 of 2025

Rs.2,58,124/- for the loss incurred due to the unauthorized occupation of the premises and the damage caused to the property. The petitioner has made several reminders and claims for the arrears of rent and compensation for the damage to the property. However, the second respondent has failed to respond to these claims or provide any payment. Hence, the present Writ Petition.

7. The learned counsel for the respondents 1 and 2 submits that the petitioner's grievances are based on issues related to contractual obligations, unauthorized occupation of property and claims for compensation for damage to property. These matters fall within the realm of civil disputes and are more appropriately addressed through a civil suit, where the petitioner can present evidence, raise issues of contractual non-performance and seek compensation for damages.

8. The learned counsel for the respondents 1 and 2 submits that this Court, in its writ jurisdiction, is not the proper forum to address the petitioner's claims, as they involve private contractual disputes and matters of private property rights. The appropriate remedy for the petitioner is to approach a civil Court for the



W.P.(MD)No.4120 of 2025

recovery of rental arrears, compensation for damages and for any claims arising from the alleged unlawful occupation of the premises. The petitioner is merely seeking damages and arrears from private parties, which should be dealt with by the civil Court. The learned counsel further submits that this Writ Petition lacks merit, as it seeks to circumvent the appropriate legal remedy by bypassing the civil Court's jurisdiction.

9. The learned counsel also contends that the respondents 1 and 2 followed due process under the SARFAESI Act in taking possession of the hypothecated machinery. The sealing of the premises was in connection with the hypothecation process, and any claims of damage or loss of rental income are matters that the petitioner should pursue in a civil Court. The respondents 1 and 2 also deny any unlawful occupation of the premises, asserting that their actions were based on legal rights under the SARFAESI Act.

10. Heard the learned counsel appearing for the parties.

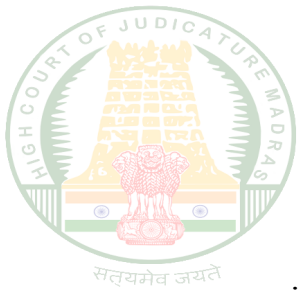


W.P.(MD)No.4120 of 2025

WEB COPY

11. After considering the submissions from both sides, this Court finds that the issues raised in the Writ Petition are primarily of a civil nature, concerning contractual obligations, the payment of rent, unauthorized occupation and compensation for property damages. These matters do not involve any public law issues or violations of fundamental rights that would warrant intervention under writ jurisdiction.

12. The petitioner has adequate remedy available through a civil suit, where the issues regarding the lease agreement, arrears of rent and damages for the alleged unauthorized occupation and property damage can be fully addressed. The Writ Court is not the appropriate forum to resolve these private disputes. Further, this Court finds that the actions of the respondent 1 and 2 were based on the provisions of the SARFAESI Act and any claims of damage or financial loss due to the occupation of the property, can be pursued through the civil Courts, as the Writ Court is not the proper venue for such matters. Therefore, the Writ Petition lacks merit and is, therefore, dismissed. The petitioner is at liberty to pursue the



W.P.(MD)No.4120 of 2025

appropriate remedy in the civil Court for the claims raised in the petition. There shall be no order as to costs.

NCC : Yes / No
Index : Yes / No
smn2

17.02.2025



WEB COPY



W.P.(MD)No.4120 of 2025

VIVEK KUMAR SINGH, J.

smn2

W.P.(MD)No.4120 of 2025

17.02.2025