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W.P.No.711 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2026

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE SHAMIM AHMED**

**W.P.No.711 of 2026
and
W.M.P.No.883 of 2026**

N.Ganesan

... Petitioner

-Vs-

1. R.Shanmugasundaram,
Branch Manager,
Canara Bank,
Kottai Branch,
Salem – 636 001.
2. The Canara Bank,
Represented by its Branch Manager,
Salem Fort Main Branch,
Salem.
3. M/s.ALA Apparel,
Represented by its Partners,
Tirupur No.12, Surya Garden,
Chandrapuram,
Pudur Pirivu, Dharapuram Road,
Tirupur – 641 604.
4. S.Thenmozhi



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5. Jeevitha Prabhakaran

6. R.Rajesh Kannan

7. S.Senthilraj

8. M/s.Naina Agro Venture,
Represented by its Partners,
Door No.2/2, Attur Main Road,
Masinaickenpatti,
Ayothiyapattinam,
Salem – 636 103.

9. Santhosh Kumar

10. Radhakrishnan @ Udhay

11. The Sub Registrar,
Suramangalam,
Subramaniam Nagar,
Ammapalayam Main Road,
Suramangalam,
Salem – 636 302.

12. Muthulakshmi,
Advocate Commissioner,
3/33A, Pallavanaickenpatty,
Iyyer Thottam, P.Mettur (PO),
Mallur (Via), Rasipuram Taluk,
Namakkal – 636 203.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondents 1, 2 & 12 from taking any action based on the letter issued by 12th respondent / Advocate Commissioner dated 26.12.2025 calling upon the petitioner to vacate and handing over the vacant possession of the petitioner's property morefully described in the schedule hereunder by 30.12.2025.



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For Petitioner : Mr.Ravi Raja Bappu

For Respondents : Mr.R.Sreedhar
Standing Counsel for R2

Mr.V.Bharanidharan
Spl. Government Pleader for R11

ORDER

(Order of the Court was made by **R.SURESH KUMAR, J.**)

The writ petition has been filed for a writ of mandamus to direct the respondents 1, 2 & 12 from taking any action based on the letter issued by 12th respondent / Advocate Commissioner dated 26.12.2025 calling upon the petitioner to vacate and hand over the vacant possession of the petitioner's property morefully described in the schedule by 30.12.2025.

2. The petitioner, according to the respondent Bank, is one of the partners of the borrower against whom SARFAESI proceeding has been initiated which reached the stage of getting an order under Section 14 of SARFAESI Act by the Chief Judicial Magistrate, Salem. Only at that stage, the petitioner filed a suit in O.S.No.580 of 2025 before the civil Court, i.e., IV Additional District Munsif Court, Salem wherein he moved an interlocutory application in I.A.No.3 of 2025 which was passed a docket order dated 08.10.2025 and the same was the subject matter in C.R.P.No.5054 of 2025 before this Court and the learned



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Single Judge of this Court by order dated 27.10.2025 dismissed the said civil revision petition with liberty to raise whatever the grounds the petitioner wants disowning the responsibility of him as a partner of the borrower firm or partnership firm before the civil Court to pursue the matter.

3. Not satisfied with the same, the petitioner has approached this Court by filing a writ petition in W.P.No.45036 of 2025 almost similar to that of the present prayer seeking a direction against the implementation of the order passed by the Chief Judicial Magistrate, in compliance of which, a letter since has been issued by the Advocate Commissioner on 13.11.2025, the prayer of mandamus was sought for directing the respondents 1 & 2 and 12 from taking any action based on the letter given by 12th respondent, i.e., Advocate Commissioner dated 13.11.2025. For comparison, the prayer sought for in W.P.No.45036 of 2025 is also extracted herein:

“Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus to direct the respondents 1, 2 & 12 from taking any action based on the letter issued by the 12th respondent/advocate commissioner dated 13.11.2025 calling upon the petitioner to vacate and handing over the vacant possession of the petitioner’s property morefully described in the schedule hereunder by 18.11.2025 or immediately thereafter.”



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4. Exactly with the same prayer, once again the writ petition has been filed before this Court.

5. While dismissing the said writ petition i.e., W.P.No.45036 of 2025, the First Division Bench of this Court by order dated 21.11.2025 has passed a following order:

“2. Petitioner’s remedy lies only before the Debts Recovery Tribunal either in the matter of challenge to possession order or to seek appropriate relief in the pending suit filed by bank. It is stated that petitioner has also filed a suit.

3. Petition is misconceived and therefore, it is dismissed, leaving all the remedies open to petitioner in the matter of challenge to possession order passed by the Chief Judicial Magistrate, in the pending suit. There shall be no order as to costs. Consequently, the interim application is also dismissed.”

6. Therefore, the present writ petition with the aforesaid prayer which is almost replica of the earlier prayer is a clear abuse of process of law, therefore, the present writ petition for the said reason alone is liable to be dismissed with huge cost.



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7. However, Mr.Ravi Raja Bappu, learned counsel appearing for the petitioner wants to withdraw this writ petition with liberty to approach the Debts Recovery Tribunal to pursue his interlocutory application to advance the hearing of his case pending before the Debts Recovery Tribunal in view of the urgency.

8. Recording his submission made in this regard, this Writ Petition is dismissed as withdrawn with a liberty to the petitioner to approach the Debts Recovery Tribunal as well as the civil Court for the aforesated purpose. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (S.S.A., J.)
19.01.2026

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji



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