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W.P.(MD) No.3931 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2026

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.P.(MD) No.3931 of 2026
and
W.M.P.(MD) No.3228 of 2026**

Pal Kannan

... Petitioner

-vs-

1.Equitas Small Finance Bank Limited
rep.by its Authorized Officer
K.Muthuselvam
S/o.Karuppaiah
having registered office at No.769
Spencer Plaza, Phase-II
4th Floor, Anna Salai
Chennai-600 002
Madurai Branches Cluster Hub
Office at Equitas Small
Finance Bank
G.V.Complex
2nd Floor, No.9-1/1A
Jawahar 2nd Street
Bye Pass Road
Madurai-625 010



W.P.(MD) No.3931 of 2026

WEB COPY

2.Maduraiyammal

3.Kasi Mayan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the entire records in relating to the impugned order made in CrIMP/4434/2025 dated 05.01.2026 on the file of the learned Chief Judicial Magistrate, Theni and to quash the same in respect of the petitioner's property in survey no.490/2, New survey no.490/2B to an extent of 2622 square feets, situating in Koraiyuthu, Megamalai Panchayat, Kadaimalai Kundu, Andipatti Taluk, Theni District.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.Ajay Parthiban for R1

ORDER

[Order of the Court was made by DR.G.JAYACHANDRAN, J.]

The petitioner apprehends that by virtue of the order dated 05.01.2026, passed by the learned Chief Judicial Magistrate, Theni, in CrI.M.P.No.4434 of 2025, the Advocate Commissioner is likely to attach his property comprised in Survey No.490/2B of Koraiyuthu, Megamalai



W.P.(MD) No.3931 of 2026

WEB COPY

Panchayat, which has been settled in his favour by his father and upon which, he has put up a construction.

2. According to the petitioner, his brother and his brother's wife, who are the respondents 3 & 2 herein respectively, have availed loan from the respondent – Bank and thereafter, become defaulters. For availing loan, they have shown the property in Survey No.490/2C settled by their father by a registered settlement dated 18.11.2011 as surety. While so, for the default in repayment of the due amount, the respondent – Bank proceeded with the matter under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and obtained an order from the learned Chief Judicial Magistrate, Theni, on 05.01.2026, for taking possession of the mortgaged property. The petitioner's fear, as expressed in this writ petition and from the oral submission of the learned counsel for the petitioner, is that under the guise of taking possession of the mortgaged property in Survey No.490/2C, which is a vacant land even as per the present survey certificate issued by the Village Administrative Officer, there is every possibility of taking possession of his dwelling house situated in Survey No.490/2B.



WEB COPY



W.P.(MD) No.3931 of 2026

3. After giving anxious consideration to the submissions of the learned counsel for the petitioner and the impugned order passed by the learned Chief Judicial Magistrate, we are of the view that the apprehension of the petitioner is ill found. The document, which has been deposited by the respondents 2 & 3 for availing loan as an equitable mortgage, is the settlement deed dated 18.11.2011 executed in favour of the third respondent by his father, in respect of the schedule mentioned property. The schedule of property to the petition filed under Section 14(1) & (2) of the SARFAESI Act before the learned Chief Judicial Magistrate, Theni, reads as below:

“SCHEDULE OF PROPERTY

Co-Applicant 1 : - MR.KASIMAYAN

All the piece and parcel of land and building comprised in S.No.490/2 with the extent of 2622 sq.ft. Land situated at Megamalai Village, Theni District within the Kadamalaigundu Sub Registration Office, Periyakulam Registration District.

North by : Land of Chinnasamy

South by : Land of Chinnasamy

East by : Land of Chinnasamy

West by : Vellimalai road



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W.P.(MD) No.3931 of 2026

*Measurement : East west 57 ft. North south – 46 ft.
Situating at within the Sub-Registration District of
Kadamalaigundu and Registration District of
Periyakulam.
Together with all buildings and structure attached
to the earth or permanently fastened to anything
attached to earth, both present and future and all
easementary / mamool rights annexed thereto.”*

4. The land comprised in Survey No.490 has been sub-divided subsequently as 490/2A, 490/2B, 490/2C & 490/2D etc., in view of the settlement deed dated 18.11.2011 executed by the father of the petitioner and the third respondent. From the schedule of the property mentioned in the petition filed under Section 14 of the SARFAESI Act, the extent of the property is mentioned as 2622 sq.ft. That is the reason why, the learned Chief Judicial Magistrate, in the impugned order, to avoid unnecessary misunderstanding or ambiguity in identifying the properties, has specifically directed the petitioner or petitioner's side counsel therein to furnish the physical copy of the petition with description of the property to the Advocate Commissioner and the Advocate Commissioner has been directed to inspect the petition mentioned property and proceed further to take physical possession thereof. Therefore,



W.P.(MD) No.3931 of 2026

WEB COPY

there is no necessity for the petitioner to apprehend that his portion of the property given by way of settlement by his father will be taken possession by virtue of the impugned order passed by the learned Chief Judicial Magistrate. If at all the petitioner has any right over the property, which he claims, he has to produce the document to substantiate his claim before the Advocate Commissioner for proper identification. This Court need not look into the identification of the property when the learned Chief Judicial Magistrate has consciously mandated the Advocate Commissioner to fix the identity of the property, which has been mortgaged and subject matter of the impugned order. Hence, we are not inclined to entertain this writ petition.

5. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. No costs.

[G.J., J.] [K.K.R.K., J.]

12.02.2026

NCC : Yes / No
Index : Yes / No
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Page 6 of 8



W.P.(MD) No.3931 of 2026

WEB COPY

To:
The Chief Judicial Magistrate,
Theni.



WEB COPY



W.P.(MD) No.3931 of 2026

DR.G.JAYACHANDRAN, J.
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W.P.(MD) No.3931 of 2026
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