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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.03.2026**

CORAM:

THE HONOURABLE **MR.JUSTICE N.SATHISH KUMAR**

AND

THE HONOURABLE **MR.JUSTICE M.JOTHIRAMAN**

W.P.(MD)No.6670 of 2026

and

W.M.P.(MD)Nos.5510 & 5511 of 2026

A.Sugathan

... Petitioner

Vs.

Tamil Nadu Mercantile Bank
Represented by its Manager,
Padanthalumoodu Branch,
Kanyakumari District.

...Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for all the connected records pertaining to the impugned order dated 15.12.2023 in CrI.M.P.No.15009 of 2023 passed by the learned Chief Judicial Magistrate, Nagercoil and quash the same consequently direct the respondent not to initiate any coercive steps against the petitioner's property in possession till the disposal of the suit in O.S.No.223 of 2023 pending on the file of the Additional District Judge, Kuzhithurai.

For Petitioner : Ms.Kaviya



For Respondent : Mr.Pethu Rajesh
Standing Counsel

ORDER

(Order of the Court was made by **N.SATHISH KUMAR, J.**)

The petitioner has filed this writ petition challenging the order passed by the learned Chief Judicial Magistrate, Nagercoil in CrI.M.P.No. 15009 of 2023 dated 15.12.2023.

2.The petitioner availed loan from the respondent bank to the tune of Rs.16 lakhs. As there was some default, the respondent Bank has initiated proceedings under the provisions of SARFAESI Act and filed a petition before the learned Chief Judicial Magistrate, Nagercil in CrI.M.P.No.15009 of 2023. The District Court appointed an Advocate Commissioner to take possession of the secured asset. Hence, the petitioner has filed the present writ petition.

3.The learned counsel for the petitioner submitted that challenging the SARFAESI proceedings initiated by the respondent bank, the petitioner has filed a suit in O.S.No.223 of 2023 before the



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Additional District Court, Kuzhithurai and the same is pending. While so, without issuing prior notice, the respondent bank has filed CrI.M.P.No.15009 of 2023 and obtained an order behind the back of the petitioner. The petitioner came to know about the said proceedings only upon seeing the paper publication issued by the respondent in respect of the subject property. Therefore, the proceedings initiated by the respondent bank are liable to be dismissed.

4.The learned counsel for the respondent bank submitted that only after issuing proper notice under the provisions of the SARFAESI Act, an order of attachment of properties has been passed in CrI.M.P.No. 15009 of 2023. Further, the order for attachment was issued on 15.12.2023, whereas the petitioner has chosen to challenge the said order after a lapse of two years.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.Admittedly, the order impugned in this writ petition has been passed under Section 14 of SARFAESI Act appointing an Advocate



Commissioner to take possession of the secured assets on 15.12.2023.

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The said order, having been passed in the year 2023, is now put to challenge in the present writ petition. However, no satisfactory explanation was given by the petitioner for such inordinate delay in challenging the order impugned in this writ petition. If the petitioner is genuinely aggrieved by the said order, the appropriate and efficacious remedy lies only before the Debt Recovery Tribunal.

7. In view of the above, we are not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

[N.S.K., J.] & [M.J.R., J.]
11.03.2026

Index : Yes/No

Internet : Yes

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To

Tamil Nadu Mercantile Bank
Represented by its Manager,
Padanthalumoodu Branch,
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**N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.**

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