



WEB COPY



W.P.No.36345 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.36345 of 2023
and W.M.P.No.36326 of 2023

K.Letchoumy Kanagarajan
Proprietrix, Meera Enterprises,
193/A, Bharathiyar Road,
Karaikal-609 602.

Petitioner(s)

Vs

1. The Authorized Officer
State Bank of India, Karaikal Branch,
No.72, Bharathiar Salai,
Karaikal-609 602.
2. M.Abdul Ali
S/o.Mohammad Sherif,
Akkur, Tharangampadi,
Nagapattinam District,
Also at No.2/49A, Sekkilar Street,
Akkoor Pandaravadai, Akkur,
Tharangampadi, Mayiladuthurai District.

Respondent(s)



W.P.No.36345 of 2023

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records pertaining to the order dated 14.12.2023 in I.A.No.135 of 2023 in AIR (SA) No.219 of 2023 passed by the Debt Recovery Appellate Tribunal, Chennai and to quash the same and consequently direct the Debt Recovery appellate Tribunal to number the appeal in A.I.R. (SA) No.219 of 2023 and decide the same on merits in accordance with law.

For Petitioner(s): Mr.T.Saikrishnan

For Respondent(s): Mr.M.L.Ganesh
for R1
(Thru Video Conferencing)

Mr.M.Venkatesh
for Mr. R.Jayaprakash
for R2

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition has been filed seeking issuance of a writ of certiorarified mandamus to call for the records pertaining to the order dated 14.12.2023 passed by the Debt Recovery Appellate Tribunal (DRAT), Chennai, in I.A.No.135 of 2023 in A.I.R.No.219 of 2023, to quash the same, and consequently direct the DRAT to number the appeal and decide it on merits.



W.P.No.36345 of 2023

WEB COPY

2.1. The brief facts of the case are that the petitioner is the sole proprietrix of Meera Enterprises and had availed an overdraft facility to the tune of Rs.90,00,000/- from the first respondent Bank, mortgaging a three-storied commercial building. Due to business setbacks, the loan account was classified as a Non-Performing Asset (NPA) on 28.08.2019. Consequently, the first respondent/Bank initiated recovery actions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [SARFAESI Act], issuing a Demand Notice under Section 13(2) of the SARFAESI Act on 29.08.2019, claiming an outstanding sum of Rs.81,75,071/-. This was followed by a Possession Notice under Section 13(4) of the SARFAESI Act on 06.11.2019.

2.2. The respondent/Bank subsequently issued an E-auction sale notice on 31.12.2019, scheduling the sale for 30.01.2020. In the auction, the second respondent was declared the successful bidder for a sale price of Rs.1,16,05,000/-.



W.P.No.36345 of 2023

2.3. Aggrieved by the sale, the petitioner filed S.A.No.32 of 2020 before the Debts Recovery Tribunal-III (DRT-III), Chennai. Pursuant to an interim order dated 20.02.2020 passed by the DRT-III in I.A.No.103 of 2020, directing the petitioner to deposit Rs.84,50,000/- on or before 22.02.2020, the petitioner deposited the said sum with the respondent Bank on 21.02.2020.

2.4. However, the first respondent/Bank did not encash the said deposit, contending that the loan account stood closed by the auction sale proceeds. The balance sale proceeds were adjusted against other liabilities. DRT-III eventually dismissed S.A.No.32 of 2020 on 03.03.2023.

2.5. Following the dismissal, the respondent/Bank registered the Sale Certificate in favour of the second respondent/auction purchaser on 07.03.2023 (Doc. No. 6968/2023 at SRO Karaikal).

2.6. The petitioner preferred an appeal before the DRAT in A.I.R. No.219 of 2023 along with a waiver application in I.A.No.135 of 2023. The DRAT dismissed the waiver application on 14.12.2023



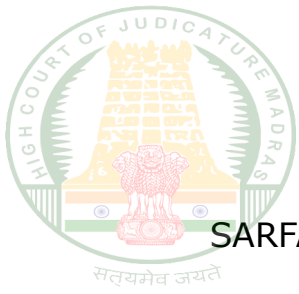
W.P.No.36345 of 2023

and, consequently, rejected the appeal on the ground that the petitioner failed to deposit the mandatory pre-deposit under Section 18(1) of the SARFAESI Act. Hence, this writ petition.

3.1. Learned counsel for the petitioner submitted that the petitioner had demonstrated *bona fide* intent by depositing Rs.84,50,000/- with the first respondent/Bank on 21.02.2020. This was done in compliance with the interim order passed by DRT-III in I.A.No.103 of 2020.

3.2. It is further submitted that the first respondent/Bank's refusal to encash the said deposit and its subsequent decision to treat the loan account as closed solely based on auction proceeds was arbitrary. He contended that since a substantial amount had already been tendered to the first respondent/Bank, the DRAT erred in dismissing the waiver application for non-compliance with the pre-deposit requirement.

4.1. Learned counsel for the first respondent/Bank contended that the pre-deposit requirement under Section 18(1) of the



W.P.No.36345 of 2023

SARFAESI Act is a mandatory threshold that cannot be waived entirely by the DRAT.

4.2. It is further submitted that the loan account was validly closed using the e-auction sale proceeds of Rs.1,16,05,000/- received from the second respondent. The remaining balance was adjusted toward other existing liabilities of the borrower.

4.3. It is contended that the first respondent/Bank could not encash the cheques tendered by the petitioner as the auction sale had already been finalized. As the physical instruments had since become stale, they carried no financial value, making the petitioner's claim of a valid deposit unsustainable.

5. Learned counsel for the second respondent/auction purchasers submitted that he is a *bona fide* auction purchaser who secured the property through a lawful public auction for a consideration of Rs.1,16,05,000/-. He added that following the dismissal of S.A.No.32 of 2020 by the DRT-III, the Sale Certificate was duly registered as Doc.No.6968 of 2023 at SRO, Karaikal.



W.P.No.36345 of 2023

Therefore, the third-party rights have been created and any further delay or restoration of the appeal without strict adherence to the law would cause grave prejudice to the auction purchaser.

6. It is to be noted that pursuant to the order passed by this Court, the first respondent produced ten cheques issued by the petitioner, which are claimed to have become stale by the first respondent/bank. Nine cheques valuing Rs.84,50,000/- have been returned to the petitioner today in open court. Furthermore, one cheque of Rs.11,79,960/- has been returned to the first respondent Bank.

7. Under Section 18(1) of the SARFAESI Act, 2002, the pre-deposit of 50% of the debt claimed by the secured creditor or determined by the DRT is a mandatory threshold condition for entertaining an appeal. The DRAT has the discretion to reduce this to not less than 25%. The petitioner cannot bypass this statutory requirement on the ground of prior unencashed cheques submitted by him.



W.P.No.36345 of 2023

8. It is a well-settled legal proposition that the statutory mandate of pre-deposit under Section 18(1) of the SARFAESI Act, 2002, is a prerequisite for maintaining an appeal. This Court, while exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, cannot issue a direction to the DRAT to completely waive the requirement of a pre-deposit while considering the statutory appeal of the petitioner. This court cannot exercise its jurisdiction to write away or dilute the explicit legislative mandate of a fiscal or recovery statute.

9. However, to subserve the interest of justice and to afford the petitioner an opportunity of appeal, we grant the petitioner two weeks time from the date of uploading of this order to pay the statutory pre-deposit, as directed in the impugned order of the DRAT. On such deposit being made within the stipulated period, the DRAT, Chennai, is directed to restore the appeal (A.I.R.No.219 of 2023) to its file and dispose it of on merits in accordance with law. If the petitioner fails to make the deposit within the period stipulated, the impugned order of the DRAT shall stand confirmed, and the appeal shall remain rejected.



W.P.No.36345 of 2023

WEB COPY

The writ petition is disposed of with the above terms. No costs. Connected miscellaneous petitions, if any, are closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
14.07.2026

Index : Yes/No
Neutral Citation : Yes/No
sasi

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WEB COPY



W.P.No.36345 of 2023

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W.P.No.36345 of 2023

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