



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.03.2015
CORAM:

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

W.P(MD)No.3407 of 2015

1.D.Ganesan
2.P.Thirupathy

... Petitioners

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.M/s.Weizmann Homes Limited,
Office Complex,
1st Floor, Padma Enclave,
Trichy Road, Dindigul.

3.A.K.Rajasekaran
4.G.Subasree

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the sale certificate dated 03.04.2006, recovery of possession process by the 1st respondent from and out of the 2nd respondent's recovery of money through SARFAESI proceedings quash the same as illegal and consequently to declare the sale certificate dated 03.04.2006 is illegal, ultra vires, inoperative, void abinitio, non est in the eye of law, not binding the petitioners and liable to be struck down by cancelling the 03.04.2006 sale deed.

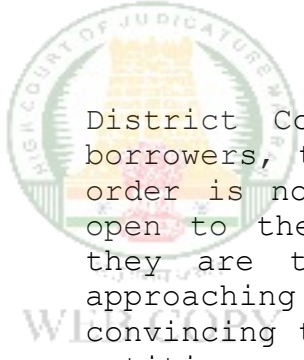
For Petitioner : Mr.V.S.Karthi

ORDER

(Order of the Court was made by **S.TAMILVANAN,J**)

Challenging the order dated 03.04.2006 passed by the District Collector, the first respondent herein under the SARFAESI Act, the petitioners herein have come forward with the writ petition seeking an order in the nature of Writ of Certiorarified Mandamus under Article 226 of the Constitution of India.

2.Learned counsel appearing for the petitioners drew the attention of this Court to the xerox copy of a notice stating Swathina Aavanam. According to the learned counsel for the petitioners, the petitioners are not the borrowers of any loan from any bank. However, their property is brought for sale under SARFAESI Act. The complete fact is not available before this Court. When admittedly, the claim of the petitioners is challenging the action taken under the SARFAESI Act by the



District Collector. It is well settled that if the petitioners are borrowers, the remedy should be before the Debts Recovery Tribunal and if order is not passed according to law by Debts Recovery Tribunal, it is open to them to approach the Debts Recovery Appellate Tribunal and if they are third parties to the loan amount, their remedy should be approaching competent Civil Court and get interim injunction by convincing the Court. However, based on a disputed question of fact, the petitioners are not entitled to approach this Court challenging the proceedings initiated under the SARFAESI Act.

3. On the said facts and circumstances, we are of the view that the writ petition is not legally maintainable. However, we make it clear that it is open to the petitioners to approach the appropriate forum or the authorities seeking redressal of their grievance.

4. With the above observation, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(Crl.Side)

\\True copy\\

Sub Assistant Registrar

To

The District Collector, Dindigul District, Dindigul.

+1cc to MR.V.S.KARTHI, ADVOCATE SR.NO.13751

W.P(MD)No.3407 of 2015
18.03.2015

SMS

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