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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.01.2016
CORAM :
THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

Writ Petition (MD) No.1375 of 2016
and
W.M.P(MD)No.1157 of 2016

A.Asokan ... Petitioner

Vs.

1.The Authorized Officer,
State Bank of India,
Stressed Assets Recovery Branch (SARB),
1/5, 1st Floor, Shanthi Plaza,
Brindawan Road, Fairlands,
Salem 636 004.

2.The Manager,
State Bank of India,
Omalur Branch,
Omalur 636 455,
Salem District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order dated 11.01.2016 passed by the Debt Recovery Tribunal Madurai in I.A.No.38/2016 in S.A.No.5/2016 and quash the conditional order to deposit a sum of Rs.5 75 000/- on two instalments in I.A.No.38/2016 in S.A.No.5/2016 as illegal.

For Petitioner : Mrs.S.Vijayashanthi

ORDER

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

The discretionary jurisdiction exercised by the Debts Recovery Tribunal in directing the petitioner to deposit 1/4th of the amount claimed by the respondent bank is not required to be interfered with by us under Article 226 of the Constitution of India. We may note that the total loan amount was Rs.9,50,000/- and thus the condition amounts to only 60% of the principal amount originally granted.

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2. It is not in dispute that educational loan was taken. It is not in dispute that the amount has not been paid. It is also not in dispute that the land in question was given as security,

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though now the petitioner seeks to make out a case as if that land cannot be proceeded against being agricultural land, in view of Section 31(i) of SARFAESI Act, 2002 even though it was undisputably given as security. Prima facie, as per the impugned order, this has been found against the petitioner though on a larger context, the issue will be examined in trial.

3.Accordingly, the writ petition is dismissed. No costs. Consequently, W.M.P.(MD)No.1157 of 2016 is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

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2.The Manager,
State Bank of India,
Omalur Branch,
Omalur 636 455,
Salem District.

+One cc to M/s.S.Vijayashanthi, Advocate, SR.No.3911

RL/4C/sms/gb/3/2/2016

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