



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2016

CORAM:

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**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.P. [MD].No.21887 of 2016
and
M.P. (MD)Nos.15641 to 15643 of 2016**

N.Palanichamy

.. Petitioner

Vs.

1.The Indian Bank,
rep. by its Branch Manager,
No.13, Urimikaran Street,
Bodinayakkanur,
Theni District.

2.The Chief Manager / Authorized Officer,
Indian Bank,
No.13, Urimikaran Street,
Bodinayakkanur,
Theni District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned E-auction sale notice dated 14.10.2016 issued by the 2nd respondent in Hindu Daily Newspaper, dated 20.10.2016 and quash the same on the ground that the same is arbitrary, illegal and without jurisdiction and consequently direct the respondents to drop all further proceedings pertaining to the proceedings initiated against the petitioner under SARFAESI Act.

For Petitioner : Mr.R.Aravindan

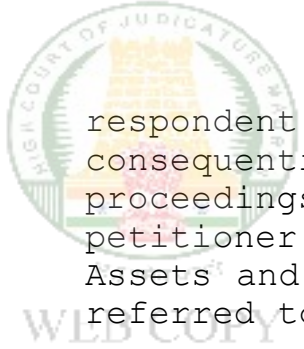
For Respondents : Mr.Pala Ramasamy

O R D E R

[Order of the Court was made by **R.SUBBIAH, J.**]

<https://hcservices.ecourts.gov.in/hcservices/>

The petitioner has come up with this Writ Petition challenging the E-Auction Sale Notice dated 14.10.2016 issued by the 2nd



respondent in Hindu Daily Newspaper, dated 20.10.2016 and for a consequential direction to the respondents to drop all further proceedings pertaining to the proceedings initiated against the petitioner under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "SARFAESI Act").

2.0. The case of the petitioner is that he is the owner of the lands comprised in Survey Nos.642/2, 642/3 and 642/1B, to an extent of 9 acres and 52 cents, situated at Bodinayakkanur Village, Bodinayakkanur Taluk, Theni District and he has availed agricultural loan from the first respondent to the tune of Rs.5,77,000/-, after executing necessary documents. Since there was default in repayment of the same, the first respondent through the second respondent initiated proceedings under SARFAESI Act and demanded a sum of Rs.16,31,327/- as a total outstanding amount and thereafter, issued a possession notice under Rule 8(1) of the SARFAESI Act. Challenging the said notice, the petitioner has filed a Writ Petition in W.P.(MD).No.5140 of 2014 and a Division Bench of this Court, relying upon the judgment of the First Bench of this Court in W.P.(MD).No.3167 of 2010, etc. batch dated 21.11.2013, dismissed the said writ petition, giving liberty to the petitioner to approach the appropriate forum provided under the SARFAESI Act, within a period of eight weeks.

2.1. Again, the petitioner has filed a writ petition in W.P.(MD).No.20507 of 2015 for prohibiting the respondents from taking any action against the properties comprised in Survey Nos.642/2, 643/3 and 642/1B on the ground that the respondents have no jurisdiction to proceed against the agricultural lands given as security for the loan availed by the petitioner. But, the same was dismissed as withdrawn with liberty to the petitioner to approach the Debts Recovery Tribunal. Now, the present writ petition has been filed on the very same ground that the respondents have no jurisdiction to initiate the proceedings, as the properties are agricultural lands.

3.The learned counsel for the petitioner submitted that the question with regard to the jurisdiction was not decided in the earlier writ petition and therefore, the present writ petition can be entertained.

4.We are of the opinion that when the earlier writ petition i.e., W.P.(MD).No.20507 of 2015 was dismissed as withdrawn by giving liberty to the petitioner to approach the Debts Recovery Tribunal, this Writ Petition cannot be entertained. Hence, this Writ Petition is dismissed with liberty to the petitioner to raise ~~services to the government~~ <https://helpline.telangana.gov.in/cases/>, including the jurisdiction of the respondents to initiate proceedings under SARFAESI Act with regard to the agricultural property, before the Debts Recovery Tribunal. No



costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CO)

/True copy/

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Sub Assistant Registrar

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Theni District.

+ 2 cc's to M/s.Pala.Ramasamy, Advocate in SR.No. 79954 & 79272

gcg

CSL/SS-2/23.12.2016: 3P/5C

Order made in
W.P.[MD].No.21887 of 2016
Dated: 05.12.2016