



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD) .No.1384 of 2017 (NPD)

and

C.M.P(MD) 6859 of 2017

Senthil

... Petitioner/Applicant

Vs.

1. The Authorized Officer,
Indian Overseas Bank,
56, 57 Theppakulam Street,
Sankari Road, Tiruchengode,
Namakkal District - 637211.

2. M/s.Shara Faabrics
Rep.by its Partner
B.Ravikumar

3. B.Ravikumar

4. R.Rajeswari

... Respondents /Respondents

PRAYER : This Civil Revision Petition is filed under section 115 of Civil Procedure Code, to set aside the order dated 19.07.2017 in S.A.S.R.No.6098 of 2017 on the file of the Debt Recovery Tribunal, Madurai.

For Petitioner

: Mr.G.Mohan Kumar

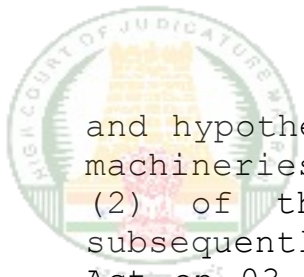
O R D E R

[Order of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This civil revision petition is directed against the order dated 19 July 2017 passed by the Debts Recovery Tribunal, Madurai in SA SR No.6098/2017.

2.The revision petitioner herein questions the sale notice dated 22 June 2017 issued by the first respondent under SARFAESI Act.

3.According to the revision petitioner, he purchased the subject properties by way of registered sale deed on 18 December 2015 from M/s.Shara Faabrics represented by its Partners Ravikumar and Rajeswari. It is admitted that the said vendor Shara Faabrics availed loan from the first respondent bank and that the said Ravikumar and Rajeswari stood as guarantors. They had mortgaged



and hypothecated their immovable properties as well as the subject machineries. The bank had issued demand notice under section 13 (2) of the SARFAESI Act on 10 February 2015. They had subsequently issued possession notice under section 13(4) of the Act on 03 September 2015. These actions under the SARFAESI Act were taken much before the purchase by the revision petitioner on 18 December 2015.

4. Since the revision petitioner purchased all the machineries in question subsequent to issuance of demand notice under section 13(2) of the SARFAESI Act and also possession notice under section 13(4) of the Act, the Tribunal came to the conclusion that the revision petitioner herein could not be considered as a bonafide purchaser of the SA schedule mentioned properties as claimed by him. The SARFAESI appeal filed by him was therefore found to be not maintainable. Aggrieved by the rejection of SA SR No.6098/2017, the present civil revision petition has been filed.

5. The learned counsel for the revision petitioner could not dispute the factual position that purchase by the civil revision petitioner was clearly in subsequent point of time compared to initiation of measures under section 13(2) and 13(4) of the SARFAESI Act. Therefore, we find that the order passed by the Debts Recovery Tribunal holding the SARFAESI appeal filed by the revision petitioner is not maintainable is perfectly justified.

6. We find no reason to interfere with the order passed by the Debts Recovery Tribunal. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer,
Debts Recovery Tribunal, Madurai

+1cc to Mr.G.Mohan Kumar, Advocate SR.No.67855

SKM/ARUL

VB/MR-KKR/SAR3/07/08/2017/2P/3C

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and**

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25.07.2017**