



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2017

CORAM:

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

W.P.[MD].No.1311 of 2017

and

W.M.P.[MD]No.1091 of 2017

1.M/s.Green Land Estate,
Rep. by its Partners,
Gunaseelan & Yasodha Devi

2.K.Gunaseelan

3.G.Yasodha Devi

: Petitioners

Vs.

The Authorized Officer,
Axis Bank Limited,
Axis Bank - RAC,
Arcot Plaza,
Old No.38, New No.165,
Arcot Road, Kodambakkam,
Chennai-600 024.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned possession notice issued by the respondent in his proceedings Nil dated 03.01.2017 and quash the same as illegal, without jurisdiction and contrary to the provisions of the SARFAESI Act, 2002.

For Petitioners : Mr.B.Saravanan

O R D E R

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

The present Writ Petition has been filed seeking for the issuance of a Writ of Certiorari, to call for the records relating to the impugned possession notice issued by the respondent in his proceedings Nil dated 03.01.2017 and quash the same as illegal, without jurisdiction and contrary to the provisions of the SARFAESI Act, 2002.



2. The only ground raised by the learned counsel for the petitioners is that even the Bank itself has admitted that the land is only an agricultural land, but the petitioners herein have constructed a godown in a portion of the land. Therefore, according to the Bank, the construction converts the nature of the land and hence, they are entitled to possession. However, according to the learned counsel for the petitioners, the construction made by the petitioners will not change the nature of classification. Therefore, the possession notice issued by the Bank is illegal.

3. However, in our considered view, the petitioners are having an alternative remedy before the Debts Recovery Tribunal. Therefore, the Writ Petition is dismissed, by giving liberty to the petitioners to approach the Debts Recovery Tribunal and the petitioners can very well canvass all the points including the grounds raised herein, before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar(A.E.,)

/TRUE COPY/

Sub Assistant Registrar

To

+1cc to M/s.B.Saravanan, Advocate, in SR No.4463.

Order made in
W.P.[MD].No.1311 of 2017
Dated: 27.01.2017

sml

mkv-pn/08.02.17/p2/2c