



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

AND

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.18567 of 2017

and

W.M.P. (MD)No.14956 of 2017

M.Muthiah

: Petitioner

-Vs-

The Authorised Officer,
M/s.Repco Home Finance Limited,
12, Gokhalae Road,
Chinna Chockikulam,
Madurai-625 002.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the possession notice of the respondent dated 04.02.2016 and quash the same and consequentially, direct the respondent to give a sufficient time to the petitioner to remit the balance amount of Rs.1,36,800/- installment dues towards housing loan of petitioner in Account No.1111890001176 on the file of the respondent.

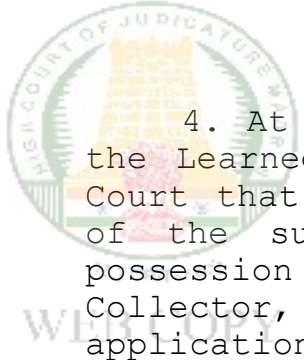
For Petitioner	: Mr.R.Ramasamy
For Respondent	: Mr.B.Rajesh Saravanan

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]
Heard both sides.

2. According to the Petitioner, he had availed Housing Loan on 23.01.2010 from the Respondent/Bank for a sum of Rs.6,00,000/- [Rupees Six Lakhs only]. Admittedly, the monthly installment amounts were fixed. It is the specific case of the Petitioner that he had remitted a sum of Rs.4,63,200/- [Rupees Four Lakhs and Sixty Three Thousand and Two Hundred only]. It appears that he received a notice from the Hindu Religious and Charitable Endowments Department who claimed that the schedule property belongs to them. According to the Petitioner, the property is in dispute.

3. As on date, the Petitioner being a defaulter, the Respondent/Bank has taken necessary measures in terms of the ingredients of SARFAESI Act, 2002.



4. At this stage of hearing, on behalf of the Respondent/Bank, the Learned Counsel for the Bank brings it to the notice of this Court that on 04.02.2016, the Respondent/Bank had taken possession of the subject matter of the property in question. The said possession is a symbolic one. Furthermore, before the District Collector, Madurai, the Respondent/Bank had taken out necessary application under Section 14 of the SARFAESI Act and the same is pending.

5. At the outset, this Court pertinently points out that the present Writ Petition filed by the Petitioner is *per se* not maintainable before this Court on the ground that the SARFAESI Act is an inbuilt and self-contained one. Under the SARFAESI Act, the Petitioner has an effective and efficacious alternative remedy. As such, this Court, without traversing upon the merits of the matter, comes to an inevitable conclusion that the present Writ Petition filed by the Petitioner is *per se* not maintainable. Consequently, the Writ Petition fails.

6. In fine, the Writ Petition is dismissed leaving the parties to bear their own costs. Consequently, the connected miscellaneous petition is closed.

7. It is made clear that the dismissal of the present Writ Petition will not preclude the Petitioner to avail such remedies under the SARFAESI Act by approaching the competent Forum in accordance with law and in the manner known to law.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.B.Rajesh Saravanan Advocate in SR. No. 82056

SML

JS/JC/SAR.2/31.10.2017/2P-2C

Order made in
W.P. (MD) No.18567 of 2017
09.10.2017