



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P (MD) No.2724 of 2017
and W.M.P.(MD)No. 2254 of 2017

N.Kannan

.. Petitioner

Vs

1. The Authorized Officer,
Chief Manager,
Canara Bank,
Regional Office, Dindigul.

2. The Branch Manager,
Canara Bank,
Batlagundu Branch,
Dindigul Road,
Batlagundu, Dindigul District.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus or any other writ or order or direction in the nature of writ, to call for the records pertaining to the impugned notice issued by the first respondent vide Ref: 0946619006534 dated 28.11.2016 and quash the same and consequently direct the respondents to restructure the payment schedule and forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the dwelling house.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For R-1 : Mr.Pala Ramasamy

O R D E R

(Order of the Court was delivered by T.S.SIVAGNANAM, J.)

This Writ Petition has been filed for issuance of writ of Certiorarified Mandamus to quash the impugned notice issued by the first respondent and direct the respondents to restructure the payment schedule and forbearing the respondents from interfering with the petitioner's peaceful possession and enjoyment of the dwelling house.

2.Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner and Mr.Pala Ramasamy, learned counsel appearing for first respondent.



3. The petitioner is before this Court, challenging the notice issued under Section 13(2) of SARFAESI Act. In terms of decisions of the Honourable Supreme Court, the writ petition against the notice under Section 13(2) of SARFAESI Act is not maintainable. It is sufficient to dismiss the writ petition. Nevertheless, the predecessor's Division Bench thought fit to refer the matter for Mediation considering the fact that the petitioner had borrowed a loan for purchase of dwelling House. However, because of administrative reasons, this matter was not placed before mediation centre.

4. The learned counsel for the respondent bank submits that the petitioner should answer the impugned notice by submitting his reply and he could also give a proposal for one time settlement.

5. In the light of the fact that the respondent Bank is not inclined to make any negotiation, while holding that this writ petition is not maintainable against the impugned notice, the petitioner is directed to give his reply to the impugned notice within a period of 15 days from the date of receipt of copy of this order. Simultaneously, the petitioner may also give a proposal for one time settlement as it appears that the petitioner is going through financial difficulty and since the petitioner's registration as a Public Works Department contractor has not been renewed. If explanation or proposal is given, the respondent bank is directed to consider the same in accordance with law.

6. In the result, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl. Side)

/True Copy/

Sub Assistant Registrar

To

1. The Authorized Officer, Chief Manager, Canara Bank,
Regional Office, Dindigul.

2. The Branch Manager, Canara Bank, Batlagundu Branch,
Dindigul Road, Batlagundu, Dindigul District.

+1CC to M/S.D. Shanmugaraja Sethupathi, Advocate, SR.No. 18653

+1CC to M/S. Palaramasamy, Advocate, SR.No. 18351

W.P (MD) No.2724 of 2017 and

W.M.P. (MD) No.2254 of 2017

27.03.2017