



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.03.2017

CORAM:

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

Writ Petition (MD).No.4046 of 2017
and
W.M.P. (MD).No.3214 of 2017

M/s. Adventura Technologies (India) P. Ltd.,
represented by its Chief Operating Officer,
Mr.D.Senthilvel,
S/o. Mr.M.Diraviam,
No.86A, Vannar I Street,
Melashunmugapuram,
Tuticorin 628 003.

... Petitioner

Vs.

1. The Authorised Officer,
Tamil Nadu Mercantile Bank Limited,
Thoothukudi Sipcot Branch,
No.97H/30, Palayamkottai Road,
Thoothukudi.
2. The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
Thoothukudi Sipcot Branch,
No.97H/30, Palayamkottai Road,
Thoothukudi.

... 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 demand notice issued by the first respondent dated 24.08.2016 and quash the same and consequently, direct the respondents to consider the representation of the petitioner dated 24.02.2017 for closing the petitioner's loan account.

For Petitioner	:	Mr.R.Vijayakumar
For Respondents	:	Mr.N.Dilip Kumar

O R D E R

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

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner has filed the writ petition challenging the demand notice issued by the first respondent under Section 13(2) of the SARFAESI Act. The settled legal position is the writ petition is not maintainable. The plea raised by the petitioner is that the loan, which is sought to be proceeded against an agricultural land is the question of fact, which the petitioner can agitate before the appropriate forum and the petitioner cannot agitate the same before the writ Court.

3. Counter affidavit filed by the respondent shows that Section 13(4) notice has been issued on 05.03.2017. Thus, at this juncture, the relief sought for by the petitioner cannot be granted and the writ petition is not maintainable and accordingly, the writ petition is dismissed. The dismissal of the writ petition will anyway prejudice to the rights of the petitioner to initiate appropriate action against the proceedings initiated by the first respondent under the SARFAESI Act before the appropriate forum. It is needless to say that all the grounds raised in this writ petition can be canvassed by the petitioner before the said forum. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.R.Vijayakumar, Advocate, SR.No.16338

akv

RL/2C/2P/SKN/6.4.2017

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