

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.9461 of 2018
and WMP No.11343 of 2018

1.Ms.V.Sheela (student)
2. Mr.M.Venkatesan
3. Mrs.Jasinth Petitioners

vs.

The Authorised Officer,
State Bank of India,
Retail Assets Central Processing Centre,
Egmore, Chennai - 600 008. Respondent

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified mandamus, calling for the records relating to Section 13(2) of the SARFAESI notice dated 06.10.2017 issued by the respondent and quash the same and direct the respondent to regularize the account of the petitioner.

For Petitioners : Ms.Thenmozhi Shivaperumal

ORDER

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

Notice under Section 13(2) is only a demand made by the Bank and the Hon'ble Supreme Court in Mardia Chemicals v. Union of India reported in AIR 2004 SC 2371 : 2004(4) SCC 311 has held that notice issued under Section 13(2) would not give rise to a cause to challenge. However, as per Section 13(3A) of the SARFAESI Act, 2002, if, on receipt of the notice under sub-section (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower: PROVIDED that the reasons so communicated or the likely action of the secured creditor at the stage of communication of

reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17A.

2. In view of the above, challenge to Section 13(2) of the SARFAESI Act, 2002, dated 06.10.2002 is not maintainable. If any action is taken under Section 13(4) of the Act, it is always open to the petitioner to question the same, in the manner known to law. Hence, the instant Writ petition is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

ars
To

The Authorised Officer,
State Bank of India,
Retail Assets Central Processing Centre,
Egmore, Chennai - 600 008.

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KAN (CO)
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