



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA
AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P.(MD) No.21894 of 2018
and W.M.P.(MD) Nos.19832 and 19833 of 2018

Murugesan ... Petitioner
vs.

1.The Authorized Officer,
Tamilnadu Mercantile Bank Ltd.,
Therekalpudur Branch
Kanyakumari District.

2.The Branch Manager
Tamilnadu Mercantile Bank Ltd.,
Therekalpudur Branch
Kanyakumari District.

3.Chelladurai

4.Leelavathi ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned auction notice issued by the 1st respondent dated 17.09.2018 and quash the same as illegal and consequently directing the 1st and 2nd respondents to follow the procedure contemplated under law before disturbing the possession of the petitioner Re-Sy.265/9 and 265/5 of Madhushoodhanapuram Village, with a house building constructed in door No.27-2A.

For Petitioner : Mr.K.P.Narayanakumar
For Respondents : Mr.N.Dilipkumar
(For R1 and R2)

O R D E R

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

This Writ Petition is directed against the impugned sale notice issued under Rules 8(6) and 9(1) of SARFAESI Act by the respondent Bank.

2. Learned counsel for the petitioner, in a bid to impress upon us, pleaded that the petitioner is a lawful tenant/lessee and he has been in permissible possession of the property in question on



monthly rental basis from the year 2003. While so, the authorized officer, after issuing notice under Sections 13(2) and 13(4) of SARFAESI Act, which have not even served upon the petitioner, has come forward to evict the petitioner behind the back, which is in violation of principles of natural justice.

3. Learned counsel for the respondent Bank urges this Court to dismiss the writ petition as it is not maintainable, since the petitioner has got effective and alternative remedy before the Tribunal.

4. The plea that has been made by the learned counsel for the petitioner before this Court has to be made only before the Debt Recovery Tribunal. As the petitioner has got effective, efficacious and statutory remedy before the Debt Recovery Tribunal, Madurai, the exhausting of alternative remedy is barred and therefore, granting liberty to the petitioner to approach the Debt Recovery Tribunal, this writ petition is dismissed. No costs. Consequently connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(AD II)

/True Copy/

Sub Assistant Registrar(CS III)

RR

1CC TO MR. K.P. NARAYANAKUMAR, ADVOCATE SR 92401

1CC TO MR. N. DILIP KUMAR, ADVOCATE SR 91832

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