



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 13.07.2018
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.P.(MD)No.15225 of 2018

and

W.M.P(MD)Nos.13760 and 13761 of 2018

M/s A to Z Mobiles Private Limited Company,
rep. by Proprietor Mr.E.Harun Nathirshah,
S/o Ibrahim Shah,
No.19,Vasatha Nagar,
Salai Street, Kokkirakulam,
Palayamkottai Taluk,
Tirunelveli District.

.. petitioner

Vs.

1. The Ombudsman
C/o Reserve Bank of India,
FortGlacis,
Chennai - 600 001.
2. The District Magistrate & District Collector,
Collectorate,
Tirunelveli District.
3. The Branch Manager and Authorized Officer,
State Bank of India,
Tirunelveli Branch,
Tirunelveli District.

.. 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 order passed by the respondent No.3 u/s 13(2) of SARFAESI Act dated 03.05.2018 and quash the same as illegal consequently directing the respondent No.1 to take appropriate action against the respondent No.3 by enquiring the petitioner's complaint dated 03.07.2018 in accordance with law within the time that may be stipulated by this Court.

For Petitioner : Mr.SMA.Jinnah
For Respondents : Mr.M.Jeyakumar AGP
(for R2)
Mr.Palaramasamy for R3

**ORDER**

[Order of the Court was delivered by **K.RAVICHANDRABAABU, J**]

This writ petition is filed challenging the notice issued under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2.Heard Mr.SMA.Jinnah, learned counsel appearing for the petitioner, Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the 2nd respondent and Mr.Palaramasamy, learned standing counsel appearing for the third respondent.

3.It is seen that the petitioner, before us, admittedly, is a borrower from the third respondent bank. By contending that the petitioner is the defaulter in repaying the borrowed sum, the third respondent bank proceeded to attach the property created by way of mortgage in discharging such loan. Such proceedings issued under Section 13(2) of the said Act is sought to be challenged before this Court in this writ petition.

4.The learned counsel for the third respondent submitted that in pursuant to the impugned notice, symbolic possession has also been taken by issuing possession notice on 12.07.2018. He has also produced a copy of such possession notice.

5.When that being the factual position, we are of the view that the petitioner is not justified in approaching this Court, at this stage, and filing the present writ petition, that too, challenging the notice issued under Section 13(2), especially when he is having sufficient remedy to approach the Debt Recovery Tribunal concerned and raise all the contentions.

6.Therefore, without expressing any view on the merits and contentions raised by the writ petitioner, this Writ Petition is disposed of with liberty to the petitioner to workout his remedy before the concerned Debt Recovery Tribunal in a manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The District Magistrate & District Collector,

<https://hservices.courts.gov.in/hservices/>

Tirunelveli District.



+1cc to Mr.Palaramasamy, Advocate SR.No.72900
+1cc to Mr.SMA.Jinnah, Advocate SR.No.73245
+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.73039

Skn

MK/KAK/SAR 2/06.08.2018/3P/5C

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and

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13.07.2018