

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.16176 of 2019 and
W.M.P.Nos.15901 & 15903 of 2019

Selvakumaran

.. Petitioner

v.

1 Punjab National Bank,
No.774 Oppanakara Street,
Coimbatore- 641001
Rep by its Assistant General Manager
(Authorized Officer)

2 R.Rajendran

3 Mary Maragatham

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 1st respondent i.e. Demand Notices dated 16.04.2019 and 02.05.2019 issued under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 Act 54/2002, quash the same and further direct the 1st respondent not to take any coercive steps in bringing the petitioner property No.36/69, Sir Shanmugham Salai, R.S.Puram, Coimbatore-641 002 for an public auction.

For Petitioner : Mr.K. Balakrishnan

O R D E R

(Order of the Court made by M.DURAI SWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in respect of the Demand Notices dated 16.04.2019 and 02.05.2019 issued under the Securitization and Reconstruction of Financial Assets and Enforcement of Security

Interest Act 2002 Act 54/2002, to quash the same and further direct the 1st respondent not to take any coercive steps in bringing the petitioner's property No.36/69, Sir Shanmugham Salai, R.S.Puram, Coimbatore-641 002 for an public auction.

2. The petitioner has challenged the notices issued under Section 13(2) of the SARFAESI Act.

3. It is settled position that the aggrieved party cannot challenge the issuance of section 13(2) notice either before this Court or before the Debts Recovery Tribunal. The petitioner can only challenge the notice issued under section 13(4) of the SARFAESI Act.

4. The learned counsel appearing for the petitioner submitted that the respondent-bank has not considered the petitioner's representation sent to the demand notices and therefore, the demand notices should be set aside.

5. The non-consideration of the reply sent under section 13(3A) of the SARFAESI Act is not a ground to set aside the demand notice. If the respondent-bank issue section 13(4) notice without considering the reply given by the petitioner under section 13 (3A), then, the petitioner can raise the said issue while challenging section 13(4) notice before the Debts Recovery Tribunal.

6. In these circumstances, we are not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Rj
To
The Assistant General Manager
(Authorized Officer)
Punjab National Bank,
No.774 Oppanakara Street,
Coimbatore- 641001

W.P. No.16176 of 2019 and
W.M.P.Nos.15901 & 15903 of 2019

NRL (CO)
RMP (02/07/2019)