

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P.No.25491 of 2019

A.Victor

... Petitioner

-vs-

1.The Branch Manager (cum) the Authorised Officer,
Canara Bank,
Sholinganallur Branch,
Chennai-600 119.

2.D.Ravichandran (Proprietor)
M/s.Sri Annamalai Founder,
No.44/27, Chakkarapani Street,
West Mambalam,
Chennai-33.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the first respondent and their agents from proceeding with the auction sale of the petitioner's house and land and permit the petitioner to repay the entire dues to the respondent Bank within a period of six months.

For Petitioner : Mr.K.Thiruvalluvan

ORDER

(Order of the Court was made by M.Duraiswamy, J.)

The petitioner has filed the above writ petition to issue a writ of mandamus forbearing the first respondent and their agents from proceeding with the auction sale of the petitioner's house and land and to permit the petitioner to repay the entire dues to the first respondent Bank with a period of six months.

2. The petitioner was issued with notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act'). The learned counsel for the petitioner submitted that the petitioner was not issued with any notice under Section 13 (4) of the SARFAESI Act so far.

3. It is settled position that notice issued under Section 13(2) of the SARFAESI Act cannot be challenged by the aggrieved party. Filing of writ petition challenging the notice issued under Section 13(2) is premature. The cause of action to challenge the proceedings would arise only after issuance of a notice under Section 13(4) of the SARFAESI Act.

4. In such view of the matter, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, W.M.P.No.25018 of 2019 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

The Branch Manager (cum) the Authorised Officer,
Canara Bank,
Sholinganallur Branch,
Chennai-600 119.

+1cc to Mr.K.Thiruvallurvan, Advocate Sr.76376

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W.P.No.25491 of 2019

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srg 28/09/2019