

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.23911 of 2019 and

W.M.P.No.23753 of 2019

K.Viswanathan

.. Petitioner

Vs.

State Bank of India,
Commercial Branch,
Krishna Towers,
No.1087/A.F. Avinasi Road,
Coimbatore - 641 037.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified mandamus calling upon the notice issued on 04.06.2019 as contemplated under Section 13 (2) of the SARFAESI Act in Ref.No.CB CBE/2019-20/SARFAESI/3 issued on 04.06.2019 and quash the same and direct the respondent not to proceed against the property of the petitioner, taking possession and further and auction sale pending passing of final order by National Company Law Tribunal, Chennai.

For Petitioner : Mr.Rev.Dr.S.N.Amarnath

O R D E R

(ORDER OF THE COURT WAS 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 relating to the notice issued on 04.06.2019 under Section 13 (2) of the SARFAESI Act and to quash the same and direct the respondent not to proceed against the property of the petitioner, taking possession and further conducting auction sale, pending final order by National Company Law Tribunal, Chennai.

2.The petitioner is challenging the notice issued under Section 13 (2) of the SARFAESI Act in this Writ Petition.

3.It is settled position that the aggrieved party can challenge the proceedings initiated under the SARFAESI Act only after the issuance of Section 13(4) notice. It is also settled position that notice issued under Section 13(2) cannot be challenged by the aggrieved party. However, the petitioner is at liberty to give his reply to the demand notice dated 04.06.2019 within the time stipulated in the said notice.

4.In these circumstances, we are not inclined to entertain the Writ Petition filed by the petitioner challenging the notice issued under Section 13 (2) of the SARFAESI Act. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

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SR(CO)
SSM(19/09/2019)

सत्यमेव जयते

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