



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) No.14283 of 2019

and

WMP (MD) No.10723 of 2019

M.Muruganandham

: Petitioner

Vs.

1.The Manager,
Indian Overseas Bank,
Ganapathi Agraharam Branch,
North Street,
Ganapathi Agraharam,
Thanjavur District.

2.The Authorized Officer/
Chief Manager,
Indian Overseas Bank,
Regional Office,
Sundharam Nagar,
Thanjavur, Thanjavur District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the entire records in connection with the sale notice, dated 14.05.2019 on the file of the second respondent and quash the same as illegal.

For Petitioner
For Respondents

: Mr.S.Venkatesha Prabu
: Mr.N.Dilipkumar

O R D E R

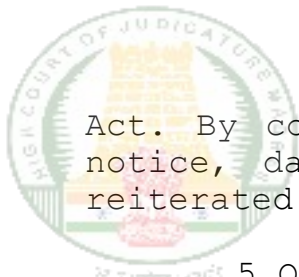
[Order of the Court was made by **K.RAVICHANDRABAABU, J.**]

This writ petition is filed challenging the sale notice, dated 14.05.2019 issued under SARFAESI Act r/w Proviso to Rule 8(6) of Security Interest (Enforcement) Rules, 2002.

2.Mr.N.Dilip Kumar, learned counsel takes notice for the respondents bank.

3.We heard both sides.

4.The main contention raised in this writ petition as against the impugned sale notice is that the same was issued without jurisdiction, since the property referred to in the sale notice is an agricultural land, which is exempted from the purview of SARFAESI



Act. By contending so, the petitioner seeks for quashing the sale notice, dated 14.05.2019. The learned counsel for the petitioner reiterated the above contentions.

5. On the other hand, the learned counsel for the respondents bank submitted that the subject matter land is not an agricultural land and on the other hand it contains buildings and therefore, if there is a dispute with regard to nature of the property as to whether it is agricultural land or not, such dispute has to be resolved only by the Debts Recovery Tribunal. Therefore, he contended that the petitioner can very well approach the Debts Recovery Tribunal and file appropriate application challenging this sale proceedings.

6. There is no dispute of the fact that the impugned sale notice was issued as early as on 14.05.2019. It is stated that the sale is to take place today (26.06.2019). At this juncture, the petitioner has come forward with the present writ petition, that too, by raising a contention that the lands are agricultural lands.

7. We are not inclined to venture upon to decide as to whether the subject matter land is agricultural land or not, more particularly, when the claim of the writ petitioner is disputed by the respondents bank. Therefore, it is for the petitioner to approach the concerned Debts Recovery Tribunal and file appropriate application challenging the sale proceedings, by raising the contentions as raised in this writ petition as well. Accordingly, without expressing any view on the merits of the claim of the petitioner as well as the respondents bank, we dispose of the writ petition by granting liberty to the petitioner to work out his remedy before the appropriate forum viz., Debts Recovery Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS)

+1 CC to Mr. N. DILIP KUMAR, Advocate SR-71922.

+1 CC to Mr. S. VENKATESHA PRABHU, Advocate SR-71391.

W.P. (MD) No. 14283 of 2019
26.06.2019

CS: (09/07/2019) 2P 3C