



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.08.2019**

CORAM:

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND**

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)NO.18565 OF 2019

and

W.M.P(MD)No.14950 of 2019

Eziilsumathi

:Petitioner

.vs.

1.The Authorized Officer,
Canara Bank,
Tallakulam Branch,
Madurai.

2.The Authorized Officer,
Canara Bank,
Asset Recovery Management Branch,
Circle Office Building,
St.Mary's Campus,
East Veli Street,
Madurai - 625 001.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the alleged impugned E-Auction Sale Notice issued in ARM/MDU/HVS/197/2019-20, dated 30.7.2019 by the second respondent under Rule 8(6) and 9 of the Security Interest (Enforcement) Rules, 2002 and to quash the same as illegal.

For Petitioner

:Mr.R.Murugan

O R D E R

[Order of the Court was made by **SENTHILKUMAR RAMAMOORTHY.,J.**]

This Writ Petition is filed challenging the E-Auction Sale Notice, dated 30.7.2019 issued by the second respondent.

2.The Petitioner is a borrower from the respondents/Bank and had offered various assets as equitable mortgage to the Bank. Upon default in repayment of the dues, the respondents/Bank issued the impugned E-Auction Sale Notice, fixing the date of auction as 31.8.2019 and the said Auction Sale Notice is impugned in this Writ Petition.



3.The main contention of the Petitioner is that the property mortgaged by one Chitra in favour of the respondents/Bank was released pursuant to the part payments made under One Time Settlement Scheme and that, therefore, the respondents/Bank is not entitled to bring the property to sale under the impugned E-Auction Sale Notice. It is further stated that the property has been under-valued in fixing the reserve price for the said properties.

4.We heard the learned counsel for the Petitioner, who reiterated the statements made in the affidavit and further contended that some interim protection should be given because the auction sale is scheduled on 31.8.2019. The Petitioner has an effective alternative remedy before the Debt Recovery Tribunal under the SARFAESI Act, 2002 and therefore, We are of the view that this is not a fit case for exercising the discretionary jurisdiction. Accordingly, without expressing any opinion on the merits of the dispute, We are inclined to dismiss the Writ Petition.

5.Accordingly, the Writ Petition is dismissed, by granting liberty to the Petitioner to approach the Debt Recovery Tribunal under the SARFAESI Act, 2002, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Authorized Officer, Canara Bank,
Tallakulam Branch, Madurai.
- 2.The Authorized Officer, Canara Bank,
Asset Recovery Management Branch,
Circle Office Building,
St.Mary's Campus, East Veli Street,
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ORDER MADE IN
W.P (MD) NO.18565 OF 2019
and
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CS (17.09.2019) 2P 3C