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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Petition (MD).No.19605 of 2019

T.P.Alagarsamy

... Petitioner

Vs.

1.The District Collector-cum-
District Magistrate,
Tirunelveli District,
Tirunelveli.

2.The Authorized Officer,
M/s Equitas Housing Finance Private Limited,
4th Floor, Phase II, Spencer Plaza,
No.769, Anna Salai, Chennai.

3.The Regional Manager,
M/s.Equitas Housing Finance Privarte Limited,
No.91/1A, G.V.Complex,
Second Floor, Jawahar Second Street,
Bye Pass Road, Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to forbear the respondents from taking actual possession of petitioner's house property situated at S.F.No.142/2 Part Plot No.32 Sivajinagar Ramayanpatty, Tirunelveli Taluk and District without following any due process of law.

For Petitioner	: Mr.T.Vadivelan
For Respondents	: Mr.M.Murugan (for R1)
	Government Advocate
	Mr.Baskar (for R2 & R3)

O R D E R

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

Heard Mr.T.Vadivelan, learned counsel for the petitioner, Mr.M.Murugan, learned Government Advocate who accepts notice on behalf of the first respondent and Mr.Baskar, learned counsel who accepts notice on behalf of the respondents 2 and 3.



2.The petitioner has filed this writ petition against the respondents 2 and 3, which are private Banks, alleging that they are initiated coercive action against the petitioner without issuing any notice.

3.From the typed set of papers filed along with the writ petition, we find that a notice under Section 13(4) of the Securitisation And Reconstruction of Financial Assets And Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'said Act') has been issued. The petitioner on receiving the same, has issued a reply through his counsel on 06.09.2018.

4.The learned counsel for the petitioner submits that without issuing any notice and without considering the request of the petitioner for furnishing statement of accounts, the respondents should not take any coercive action.

5.The learned counsel appearing for the respondents bank submitted that in the light of a decision of the Hon'ble Supreme Court in **Standard Chartered Bank Vs., V.Noble Kumar and others** reported in **(2013) 9 SCC 620**, exhaustion of right to obtain possession of secured asset directly by Bank under Section 13(4) prior to approaching Magistrate for taking possession of secured asset and held not mandatory. The learned counsel further, on instructions, submitted that the bank proposed to move the first respondent/District Magistrate under Section 14 of the said Act and District Magistrate will issue notice to the petitioner. Therefore, the apprehension of the petitioner that he will be evicted summarily is not established, as the respondents banks have proposed to proceed in terms of Section 14 of the said Act.

6.For the above reasons, we are not inclined to entertain this writ petition. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

The District Collector-cum-
District Magistrate,
Tirunelveli District,
Tirunelveli.



+1 CC to Mr.T.VADIVELAN, Advocate (SR-86395[F] dated 12/09/2019)
+1 CC to SPL.GP (SR-86552[F] dated 13/09/2019)
+1 CC to Mr.B.BASKAR, Advocate (SR-86585[F] dated 13/09/2019)

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Writ Petition (MD).No.19605 of 2019
12.09.2019

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