



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2019

CORAM:

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

W.P. (MD) No.24249 of 2019

and

W.M.P. (MD) No.20859 of 2019

S.Murugan

... Petitioner

-vs-

1.The Assistant General Manager
Indian Bank Zonal Office
Madurai-1

2.The Authorized Officer
Indian Bank
Theni Branch
No.144, Madurai Road
Theni, Theni District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the impugned order vide possession notice dated 02.11.2019, as per rule 8(1) in appendix IV of SERFAESI Act on the file of the second respondent continued by notice under Section 13 (2) dated 31.05.2019 of SERFAESI Act on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.M.Selvakumar

For Respondents : Mr.R.Pandivel

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

This writ petition has been filed challenging a notice issued by the respondent Bank under Section 13(2) of SARFAESI Act as well as the possession notice.



2. According to the petitioner, he is entitled for grant of subsidy from the National Horticulture Board and the same was rejected by an erroneous order dated 10.12.2018, which was challenged in a writ petition in W.P.(MD) No.11998 of 2019 and the said writ petition was allowed by order dated 22.07.2019 and the order rejecting the application for subsidy was set aside and the matter was remanded to the National Horticulture Board for reconsideration. Even before the order could be received by the petitioner, the respondent Bank has issued the possession notice in spite of the fact that they are also respondents in the writ petition.

3. In our considered view, the challenge to a notice issued under Section 13(2) of SARFAESI Act and the possession notice cannot be maintained in a writ petition as the petitioner has an effective alternative remedy before the Debts Recovery Tribunal under the provisions of the SARFAESI Act.

4. The second aspect of the matter is whether it is a agricultural land or not is an issue, which has to be raised only before the Debts Recovery Tribunal

5. Thirdly, the direction issued in W.P.(MD) No.11998 of 2019, dated 22.07.2019, can in no manner be a ground to not pay the loan as per the schedule.

6. The learned counsel for the respondent Bank submitted that even before filing of the earlier writ petition, the petitioner's account has been declared as "NPA".

7. For the above reasons, we hold that the present writ petition is not maintainable and the same is dismissed. However, this will not be a bar for the petitioner to approach the Debts Recovery Tribunal, if he is so advised. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

krk



+1 CC to M/s.M.SELVAKUMAR, Advocate (SR-99127[F] dated 18/11/2019)

+1 CC to M/s.R.PANDIVEL, Advocate (SR-99137[F] dated 18/11/2019)

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