



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 8331 of 2020 and

W.M.P. (MD) Nos. 7732 & 7733 of 2020

WEB COPY

L.Govindarajan

... Petitioner

Vs.

1. The Authorized Officer,
Canara Bank,
Melur Branch,
Door No.759/760,
Madurai Trichy Main Road,
Melur, Madurai District,

2. The District Collector & District Magistrate (FAC),
Office of the District Collector,
Collectorate,
Madurai District.

3. The Tahsildar,
Melur Taluk,
Madurai District.

4. M.Ayyanar

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to cancel the sale deed in document No.1347 of 2019 on the file of the Sub-Registrar, Melur dated 13.03.2019 executed in favour of respondent No.4.

For Petitioner

: Mr.V.Kannan

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O R D E R

Heard the learned counsel appearing for the petitioner.

2. The petitioner had availed loan from the first respondent Bank. It appears that he committed default. The first respondent initiated proceedings under the SARFAESI Act. The same is under challenge before the Debts Recovery Tribunal. The petitioner had filed S.A.No.602 of 2018 before the Debts Recovery Tribunal, Madurai. In the meanwhile, the bank had gone ahead with the SARFAESI proceedings. The petitioner's property was brought to sale and the sale deed was also registered on the file of the Sub-



Registrar, Melur. The petitioner's counsel draws my attention to the statement recorded under Section 161 of Cr.P.C. in the criminal case registered at his instance and pointed out that the sale notice was received by none other than the fourth respondent who is the petitioner's neighbour. In the auction also, the fourth respondent had taken the property. The petitioner's core allegation is that there was a commission of fraud and collusion between the fourth respondent and the bank officials. The petitioner's counsel therefore wants this Court to have the petition mentioned document nullified and cancelled.

3. The petitioner no doubt has an arguable case. But then, I am afraid he has chosen the wrong forum. The Hon'ble Supreme Court in the decision reported in (2010) 8 SCC 110 (United Bank of India V. Satyawati Tondon and others) had clearly and categorically held that the High Court will not be justified in entertaining the writ petitions in matters concerning SARFAESI proceedings. It cannot be disputed that the subject matter of the writ petition directly pertains to SARFAESI proceedings.

4. Therefore the only remedy open to the petitioner is to pursue his challenge before the Debts Recovery Tribunal or file an independent case challenging the impugned registration. Invoking Article 226 of the Constitution of India is clearly misconceived. This writ petition is therefore dismissed *in limine* at the admission stage without ordering notice to the respondents.

5. I make it clear that I have not gone into the merits of the matter. All the rights of the petitioner are left absolutely open. Liberty to the petitioner to pursue his remedies which shall not be in any way affected by the dismissal of this writ petition. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the

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correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1 The District Collector & District Magistrate(FAC),
Office of the District Collector,
Collectorate, Madurai District.
2. The Tahsildar,
Melur Taluk, Madurai District.

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