

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3848 of 2021

R.Santhosam

.. Petitioner

Vs.

1. Authorised Officer
REPCO Bank, Kancheepuram Branch
No.166, 1st Floor, Gandhi Road
Kancheepuram 631 501.

2. S.Hariharan .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the first respondent from initiating proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 or any other law, and also forbearing the first respondent from forcibly evicting the petitioner from the residence at No.23-B, Thumbavanam, Arunachalam Street, Kancheepuram, occupied by the petitioner pursuant to the auction notice issued by the first respondent dated 28.01.2020.

For Petitioner :: Ms.Thenmozhi Sivaperumal

ORDER

(made by the Hon'ble Chief Justice)

The petitioner, an admitted defaulter in paying off the dues of the respondent bank, seeks protection from this court so that steps are not taken by the respondent bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. It appears from a reading of the writ petition that one of the secured assets has been put to auction. A grievance as to the perceived inadequacy of the consideration has also been aired.

3. The matters complained of are, ordinarily, not received in the extraordinary jurisdiction under Article 226 of the Constitution. The matters of the present kind involve disputed questions of fact, serious differences on accounts and such issues cannot be conveniently addressed on affidavit evidence in summary proceedings.

4. In any event, there is a statutory remedy provided to a debtor under the said Act of 2002, once a secured creditor adopts any measure under Section 13(4) of the Act. Since it is evident in the present case that measures have been adopted under Section 13(4) of the Act, the petitioner's remedies would lie before the appropriate Debts Recovery Tribunal.

5. For the aforesaid reasons, W.P.No.3848 of 2021 is not entertained and the petitioner is left free to pursue the petitioner's usual remedies in the appropriate forum in accordance with law. There will be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

Authorised Officer
REPCO Bank, Kancheepuram Branch
No.166, 1st Floor, Gandhi Road
Kancheepuram 631 501.

W.P.No.3848 of 2021

AD(CO)
CSR: 09.03.2021