

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

CORAM :

The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3535 of 2021
and W.M.P.No.4023 of 2021

Vedhanayagi Petitioner

-vs-

- 1.The Reserve Bank of India,
(Non-Banking Financial Division),
Chennai.
- 2.The State Rep. by its
District Collector,
Ranipettai District, Ranipet,
Ranipettai District.
- 3.The Revenue Divisional Officer,
Ranipet Revenue Division,
Ranipet (Town), Ranipet District.
- 4.The Tahsildar,
Office of the Wallajah Taluk,
Wallajapet, Ranipettai District.
- 5.The Authorised Officer,
M/s.Aptus Value Housing Finance
Ltd., 8B, Doshi Towers,
205, Poonamallee High Road,
Kilpauk, Chennai 600 010. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration to declare the above said public auction sale notice of the 5th respondent dated 18.01.2021, covering the land and building of the petitioner at Kaarai Village, S.Nos.10, 11, 13/1, 13/2A, 14/1A, Plot No.44, Wallajah Taluk, Ranipettai District as not valid, not enforceable in law and as illegal.

For Petitioner : Mr.S.Pugalendhi

For Respondent : Mr.K.S.Suresh
Government Advocate
for RR 1 to 3

ORDER

(Made by Senthilkumar Ramamoorthy, J.)

The writ petitioner challenges an auction sale notice dated 18.01.2021 issued by the fifth respondent-financial institution. The writ petitioner asserts that her husband had taken a housing loan from the fifth respondent-financial institution and that payments were made promptly until the fabrication unit of her husband started making losses. It is further stated that the writ petitioner's husband is no more and that therefore, the proceedings initiated by the fifth respondent under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the SARFAESI ACT'), are invalid.

2. The writ petitioner has an alternative statutory remedy under Section 17 of the SARFAESI Act with regard to measures taken by a secured creditor against secured assets. The petitioner also raises disputed questions of fact which cannot be conveniently addressed in a writ petition by way of affidavit evidence.

3. The writ petitioner has also failed to establish that the statutory remedy is not efficacious. For all these reasons, we decline to exercise discretionary jurisdiction.

Consequently, the writ petition, W.P.No.3535 of 2021, is dismissed. However, such dismissal is without prejudice to the rights of the writ petitioner to canvass her grievances before the appropriate Debts Recovery Tribunal in accordance with law. There will be no order as to costs. As a consequence, W.M.P.No.4023 of 2021 also stands dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Reserve Bank of India,
(Non-Banking Financial Division),
Chennai.

2.The District Collector,
Ranipettai District, Ranipet,
Ranipettai District.

3.The Revenue Divisional Officer,
Ranipet Revenue Division,
Ranipet (Town), Ranipet District.

4.The Tahsildar,
Office of the Wallajah Taluk,
Wallajapet, Ranipettai District.

+2cc to M/s.J.P.Law Associates, Advocate Sr.10199

W.P.No.3535 of 2021

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srg 08/03/2021



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