

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9666 of 2021

Gunasundari

.. Petitioner

Vs

- 1 Lakshmi Vilas Bank
represented by its Manager
Kavundampalaya Branch
No.4, Gandhi Nagar
Mettupalayam Road
Kavundampalayam
Coimbatore District.
 - 2 The Authorized officer
Reliance Asset and Reconstruction Company Limited
Reliance Centre, 6th Floor, North Wing
Off Western Express Highway
Santacruz, Mumbai - 400055.
- .. Respondents

Prayer: Petition under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the entire records relating to the impugned possession notice dated 19.11.2020 and quash the same.

For Petitioner : Mr.A.Saranraj

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petitioner claims to be the widow of the deceased borrower. The grievance of the petitioner is that the petitioner's properties have been proceeded against by the second respondent without notice to the petitioner and without reference to her.

2. It appears that the petitioner's husband obtained credit facilities from Lakshmi Vilas Bank, but the debt due may have been assigned by Lakshmi Vilas Bank or its successor-in-interest to the second respondent asset reconstruction company.

3. It is elementary that upon any measures taken by a secured creditor under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, any person aggrieved thereby may approach the Debts Recovery Tribunal having jurisdiction with the grievance. The expression in the relevant provision is "any person" and, to emphasise, the words "including borrower", are indicated in parentheses. Thus, the petitioner's remedy lies before the appropriate Debts Recovery Tribunal.

4. When there is a statutory remedy provided against any action taken in terms of such statute, the statutory remedy must be availed of ahead of invoking this extraordinary jurisdiction under Article 226 of the Constitution. It is only upon a case of lack of jurisdiction or complete breach of the principles of natural justice or the absurdity of the action being demonstrated would a Writ Court be excited to take up the matter ahead of the statutory forum. At any rate, disputed questions pertaining to accounts cannot be conveniently gone into in summary proceedings conducted on affidavit evidence.

5. Since the best arguable case of the petitioner would not prompt this Court to entertain any adjudication on the merits of the matter or the propriety of the measures taken by the respondent secured creditor, W.P.No.9666 of 2021 is dismissed without issuing any notice.

There will be no order as to costs. Consequently, W.M.P.Nos.10237 and 10238 of 2021 are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1 The Manager
Lakshmi Vilas Bank
Kavundampalaya Branch
No.4, Gandhi Nagar
Mettupalayam Road
Kavundampalayam
Coimbatore District.

2 The Authorized officer
Reliance Asset and Reconstruction Company Limited
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W.P.No.9666 of 2021

AD(CO)
CB(29/06/2021)



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