



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM :

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

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9450 of 2021
and W.M.P.No.10038 of 2021

Venkatesh Rajasekaran

... Petitioner

-vs-

1 The Authorized Officer
Rep by its Assistant General Manager
The State bank of India (SBI)
SAM branch Red Cross building
No.32 Red cross Road
Egmore Chennai

2 The General Manager (Vigilance)
Banking Ombudsman
The Reserve bank of India
No.6 Sansadmarg Sansadmarg Area
New Delhi-110 001

3 Govindaraj Gounder

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the 1st respondent from in any manner taking coercive steps taking against the petitioners property situated in S.F.No.204, New Sub division in S.No.204/2A, S.F.No.203, New Sub-Division in S.No.203/1, S.F.No.209, New Sub Division in S.No.209/1, in Salem Road Namakkal Town and consequently directing the 2nd respondent to take appropriate action against the 3rd respondent and his collude associates within stipulated time.

For Petitioner

: Mr.M.Dinesh

For Respondents

: Ms.R.J.Radhika,
Government Advocate,
for 1st respondent



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ORDER

(Made by The Hon'ble Chief Justice)

This is another of those petitions where a rather incredulous yarn is spun to invoke this extraordinary jurisdiction under Article 226 of the Constitution ahead of the statutory remedy available to the petitioner, for obvious reasons.

2. The essence of the petitioner's grievance is that the third respondent obtained credit facilities from the first respondent bank by depositing fabricated title-deeds pertaining to an immovable property owned by the petitioner. It appears that the first respondent has taken measures under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 against the relevant property.

3. Section 17 of the Act of 2002 gives a right to any person aggrieved by the measures taken under Section 13 (4) of the Act by a secured creditor to carry the grievance to the appropriate Debts Recovery Tribunal. Ordinarily, when borrowers (an expression which is used in the Act to include guarantors) approach a Debts Recovery Tribunal, some amount is required to be initially deposited before the adjudication is undertaken. There is no doubt that the petitioner here seeks to avoid such order and, instead of the remedy available under Section 17 of the Act, the petitioner went and lodged a complaint with the Banking Ombudsman. Though the ostensible prayer in the present petition is for a direction on the Banking Ombudsman to dispose of the matter, such mischievous prayer is designed to stall the first respondent from taking effective measures under the Act of 2002 and to compel the Banking Ombudsman to entertain a matter that such Ombudsman should, ordinarily, throw out without a second thought.

4. The petitioner is not entitled to any latitude. The petitioner's remedy lies before the appropriate Debts Recovery Tribunal. W.P.No.9450 of 2021 is dismissed with costs assessed at Rs.10,000/- to be paid to the first respondent bank and in respect whereof the first respondent will be entitled to proceed against the relevant security.

5. Consequently, W.M.P.No.10038 of 2021 is closed.



6. After the order is passed, the petitioner seeks to withdraw the petition, which is declined.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra
To

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W.P.No.9450 of 2021

JPII(CO)
RMP(04/05/2021)