IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.11223 of 2021

P.R.Annamalai ...Petitioner

Vs

1 The Presiding officer
Honourable Debt Recovery Tribunal 3 Chennai
5thFloor Spencer Tower 770A Anna Salai
Chennai 600 002.

2 The Authorised Officer
Indian Bank Erukkancherry Branch
Chennai 600 118. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the A. that the Sarfesi Act can only be invoked for accounts having become NPA after its coming into existence on 21.6.2002 or 18.12.2002 and 180 days after default and not to accounts declared as NPA before that date. B. That therefore the invoking of the powers under the Sarfesi Act on 9.2.2005 for account claimed to be declared as NPA as on 31.3.200 and all further actions taken or to be taken are illegal non est and void

For the Petitioner	:	Mr.M.Mohamed Hasain
For the Respondents	:	Mr.S.R.Sumathy, for second respondent R1 - Tribunal

ORDER

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

It is probably best that the petitioner cannot be heard for no submission on behalf of the petitioner may be relevant since the primary prayer is made pertaining to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the relevant account in this case having become NPA prior to the said Act coming into effect.

2. Though the issue raised appears to be childish, it need not be answered since the petitioner will have an appropriate remedy if and when any measure is adopted by the respondent secured creditor under Section 13(4) of the Act, if not already done.

3. Section 17 of the Act permits any person aggrieved by any measure taken by a secured creditor under Section 13(4) of the Act to approach the jurisdictional Debts Recovery Tribunal. It is possible in this case that some measure may have been taken by the secured creditor against which the petitioner may not have moved the appropriate Debts Recovery Tribunal. In such a situation, the extraordinary jurisdiction under Section 226 of the Constitution could not have been invoked.

4. It is equally possible that no measure has yet been taken under Section 13(4) of the Act. In such a situation, the petitioner has to wait before a measure is taken under Section 13(4) of the Act for the petitioner to be entitled to question the propriety of such measure by invoking Section 17 of the Act before the appropriate Debts Recovery Tribunal.

5. Since there is an efficacious alternative remedy available to the petitioner, the present writ petition is not entertained and the petitioner is left free to work out the petitioner's remedies before the relevant forum in accordance with law.

6. W.P.No.11223 of 2021 is dismissed. There will be no order as to costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To:

1. The Presiding officer
Debt Recovery Tribunal III Chennai
5^{th} Floor Spencer Tower
770A Anna Salai
Chennai 600 002.

2. The Authorised Officer
Indian Bank Erukkancherry Branch
Chennai 600 118.

W.P.No.11223 of 2021

MG(CO)
LS(13/09/2021)