

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.05.2021

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P.No.11643 of 2021
and
W.M.P.Nos.12382 and 12384 of 2021

L.Nithish Krishna .. Petitioner
Vs.

1. The District Collector and District Magistrate Coimbatore.
2. The Commissioner of Police Coimbatore.
3. The Revenue Divisional Officer Coimbatore (North), Coimbatore District.
4. The Tahsildar Coimbatore (North), Coimbatore District.
5. The Authorised Officer Canara Bank ARM Branch 166, TV Swamy Road (West) R.S. Puram Coimbatore - 641 026.
6. Canara Bank Rep. by its Branch Manager Trichy Road Branch Kaviraj Towers, No. 1192 Trichy Road, Coimbatore - 641 004. .. Respondents

Prayer : Petition under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the order of the First Respondent dated 12.04.2021 in Ref. No. 14993/2018/E3 and quash the same.

For Petitioner :: Mr. K.Selvaraj

For Respondents :: Mrs. A.Srijeyanthi (For R1 to R4)
Special Government Pleader

Mr. P.Raghunathan (For R5 & R6)
for M/s. T.S.Gopalan & Co

O R D E R

(through video conference)

(Order of the Court was made by P.D.AUDIKESSAVALU, J.)

Heard Mr. K.Selvaraj, Learned Counsel for the Petitioner, Mrs. A.Srijeyanthi, Learned Special Government Pleader, who takes notice for the First to Fourth Respondents and Mr. P.Raghunathan of M/s. T.S.Gopalan & Co., Learned Counsel, who takes notice for the Fifth and Sixth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has challenged the proceedings dated 12.04.2021 in Ref. No. 144993/2018/E3 passed by the First Respondent under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act' for short) in this Writ Petition.

3. When it was pointed that the Petitioner has an effective alternative remedy to file Application under Section 17 of the SARFAESI Act against such order when the secured creditor invokes Section 14 of the SARFAESI for taking possession of a mortgaged property as held by the Hon'ble Supreme Court of India in Standard Chartered Bank -vs- V.Noble Kumar [(2013) 9 SCC 620], Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to resort to the said procedure. He has filed confirmatory memo dated 05.05.2021 through e-mail to that effect, which is placed on record.

4. In view of the same, the Writ Petition is dismissed as withdrawn, granting such liberty. It is made clear that for the purpose of computation of limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 03.05.2021, till the date on which certified copy of this

order is made ready by the Registry, shall be excluded. Consequently, connected Miscellaneous Petitions are closed. No costs.

-s/d-

Vacation Officer
/Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi/ssm/Maya

To

1. The District Collector and District Magistrate
Coimbatore.
2. The Commissioner of Police
Coimbatore.
3. The Revenue Divisional Officer
Coimbatore (North), Coimbatore District.
4. The Tahsildar
Coimbatore (North), Coimbatore District.
5. The Authorised Officer
Canara Bank ARM Branch
166, TV Swamy Road (West)
R.S. Puram Coimbatore - 641 026.
6. Canara Bank
Rep. by its Branch Manager
Trichy Road Branch
Kaviraj Towers, No. 1192
Trichy Road, Coimbatore - 641 004.

- 1 cc to M/s.K. Selvaraj, Advocate SR.27099
- 1 cc to Mr. Government Pleader Sr.27148

W.P.No.11643 of 2021
and

W.M.P.Nos.12382 and 12384 of 2021

RR(CO)
EU 11.5.2021