

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.11724 of 2021

&

W.M.P.Nos.12485, 12487 and 12488 of 2021

Amman Educational Trust,
Rep. By its Chairman Shanthirani,
No.4/230, Samiyarkinaru,
Manivilunthan Post,
Athur Taluk,
Salem District
... Petitioner

Vs.

The Authorized Officer,
Incred Financial Services Limited,
Formerly Visu Leasing and Finance Limited,
Unit 3B, KPM Commercial Center,
No.63, Narayanasamy Layout, (Near GKNM Hospital Signal),
Bharathiyar Road,
Pappanaickenpalayam,
Coimbatore
... Respondent

Prayer : Petition under Article 226 of the Constitution of India
to issue a Writ of Certiorari calling for the records of the
respondent in connection with the impugned notice dated
30.04.2021 and quash the same.

For Petitioner :: Mr. K.Venkatramani, Senior Counsel,
for Mr.S.Sivakumar

O R D E R

(through video conference)

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

Heard Mr. K.Venkatramani, Learned Senior Counsel, assisted
by Mr. S.Sivakumar, Learned Counsel for the Petitioner and
perused the materials placed on record, apart from the pleadings
of the parties.

2. The Petitioner has challenged the possession notice dated 30.04.2021 issued by the Respondent under Section 13(4) 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 13(4) of the SARFAESI for taking possession of a mortgaged property as held by the Hon'ble Supreme Court of India in Mardia Chemicals Ltd., -vs- Union of India [(2004) 4 SCC 311], 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 In view of the same, the Writ Petition is dismissed as withdrawn, granting such liberty.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

gpa/nl/Maya

सत्यमेव जयते

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CP(CO)
EU 11.5.2021

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