

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.11733 of 2021

&

W.M.P.No.12492 and 12493 of 2021

T.Ramalingam

... Petitioner

Vs.

1. The Authorised Officer

Union Bank of India (Erstwhile ANDHRA BANK)
Pollachi Branch, Pollachi
Coimbatore District

2. T.Vijayakumar

3. The Debt Recovery Tribunal
Coimbatore

... Respondents

Prayer : Petition under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order dated 18.12.2020 made in Crl.M.P.No.6537 /2020 on the file of the Learned Chief Judicial Magistrate, Coimbatore made in respect of scheduled mentioned property and to quash the same and consequently to issue directions to the 1st Respondent not to proceed further in pursuance of the order dt. 18.12.2020 in Crl.M.P.No.6537/2020 on the file of learned Chief Judicial Magistrate, Coimbatore.

For Petitioner :: Mr. R.Nandhakumar

ORDER

(through video conference)

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

Heard Mr. R.Nandhakumar, 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 order dated 18.12.2020 in Criminal Miscellaneous Petition No. 6537 of 2020 passed by the Chief Judicial Magistrate, Coimbatore 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 In view of the same, the Writ Petition is dismissed as withdrawn, granting such liberty.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., 04.05.2021, 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

W.P.No.11733 of 2021 & W.M.P.No.12492
and 12493 of 2021

To

The Chief Judicial Magistrate,
Coimbatore.

LN(CO)
EU 11.5.2021

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