



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.17115 OF 2021

Dr.Zubaida Begaum

... Petitioner

.Vs.

1. The Chairman and Managing Director,
Indian Bank,
254-260, Avvai Shanmugam Salai,
Gopalapuram,
Chennai - 600 014.

2. The Reserve Bank of India,
No.16, Rajaji Salai, Fort Glacis,
Chennai - 600 001.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India for issuance of a writ of declaration declaring the sale certificate dated 23.10.2009 registered as document No.7369/2011 executed by the first respondent in favour of the Authorised Officer of the Indian Bank as non est, illegal in the eye of law and consequently restore the possession of the secured asset being an extent of 6 Acres 12 Cents in various Survey numbers at Semmanjeri Village and Kovalam Panchayat.

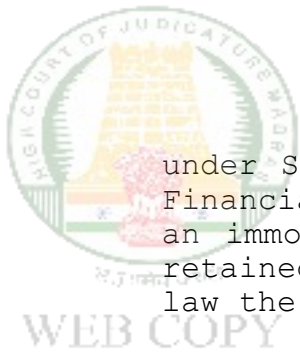
For Petitioner : Mr.S.Sethuraman

For Respondents : Mr.Jayesh B Dolia
For respondent No.1

ORDER

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

The petitioner, who had obtained credit facilities from the respondent bank and has suffered a certificate in proceedings



under Section 19 of the then Recovery of Debts Due to Banks and Financial Institutions Act, 1993, seeks to question the sale of an immovable property on the ground that the property had been retained by the bank for a long time and as per the applicable law the same could no longer be sold.

2. There is no need to enter into the merits of the petitioner's grievance, even though it appears to be childish and baseless. What is of significance is that the petitioner had questioned the propriety of the sale before the appropriate Debts Recovery Tribunal and an appeal is pending from the order passed by the Debts Recovery Tribunal before the appropriate Debt Recovery Appellate Tribunal.

3. It is elementary that when a challenge to a particular act is made, the entirety of the challenge has to be canvassed and a part of the challenge cannot be left out to be pursued at a later stage. Since it is evident that the petitioner herein had questioned the propriety of the sale pertaining to the immovable property before the Debts Recovery Tribunal, the petitioner ought to have canvassed the grounds taken herein before the Debts Recovery Tribunal at the appropriate stage. After having lost the matter before the Debts Recovery Tribunal, the petitioner cannot bring in additional grounds to obtain an order to the same effect, by invoking this extraordinary jurisdiction under Article 226 of the Constitution.

4. The petitioner is left free to pursue whatever remedy may be available to the petitioner before the forum in which the matter is now pending. The writ court will not exercise any discretion in favour of such petitioner or entertain the dispute since the validity of the sale or otherwise is under consideration before an appropriate forum.

5. W.P.No.17115 of 2021 is disposed of by leaving the petitioner free to pursue the grievance in accordance with law before the forum in which the challenge remains pending.

There will be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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Gopalapuram,
Chennai - 600 014.

2. The Reserve Bank of India,
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AK-II(CO)
PBS/26/08/2021