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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.15891 of 2021

1.S.Malliga
2.S.Dharshii ... Petitioners

Vs

M/s.Repco Home Finance Limited,
rep. by its Authorized Officer
Ganesapuram Pillayar Koil Street,
On the top of IOB, Thuraiyur Road,
Namakkal - 637 001. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records on the file of the respondent in relation to the proceedings under the SARFAESI Act, 2002 in Ref.RHFL/SARL-2484-NKL/2018 dated 29.11.2018 issued under Section 13(2) of the said Act, taking symbolic possession of the properties by possession notice dated 07.03.2019 under Section 13(12) of the Act, consequential order dated 09.07.2020 passed by the learned Chief Judicial Magistrate, Namakkal, in Crl.M.P.No.3871 of 2019 under Section 14 of the said Act and e-auction sale notice dated 15.07.2021 issued in S.No.07/61 and to quash the same as illegal, incompetent, unconstitutional and without jurisdiction.

For Petitioners : Mr.D.Vairamoorthy

For Respondent : Mr.A.Ilangovan

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ORDER

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

The principal issue raised here is that the respondent, Repco Home Finance Limited, cannot be seen to be a secured creditor within the meaning of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

2. While in several previous petitions instituted before this court, it was held that the holding company of Repco Home Finance Limited, Repco Bank, was not a secured creditor within the meaning of the definition used in the Act 2002, by virtue of a notification of November 10, 2003, Repco Home Finance Limited has been recognised as a financial institution and, thus, such entity has to be regarded as a secured creditor within the meaning of Section 2(1)(zd) of the Act.

3. Reference may be made in this context to one of the previous orders rendered which has been reported at AIR 2021 Mad 152 (Jesima Banu v. Union of India).

4. Accordingly, since the basis of the petitioners' challenge to the measures adopted by the respondent secured creditor is flawed, W.P.No.15891 of 2021 is dismissed. Consequently, W.M.P.Nos.16793, 16794, 16796, 16797 and 16798 of 2021 are closed.

There will be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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bbr
To:

The Authorized Officer,
M/s.Repco Home Finance Limited,
Ganesapuram Pillayar Koil Street,
On the top of IOB, Thuraiyur Road,
Namakkal - 637 001.

+1cc to Mr.S.Senthil, Advocate Sr.37788
+1cc to M/s.A.Ilangovan, Advocate Sr.37832

W.P.No.15891 of 2021

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srg 05/08/2021

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