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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.NO.19860 OF 2021

V.Tamilarasi

...Petitioner

-VS-

1. The District Collector of Chennai
Office of the District Collectorate of Chennai,
Singaravelar Maligai,
George Town, Chennai- 600 001.
2. The Commissioner of Police,
Office of Greater Chennai City Police
Commissioner, EVK Sampath Salai, Vepery,
Chennai- 600 007.
3. State Bank of India,
Rep.by its Authorized Officer,
Stress Assets Recovery Branch,
2nd Floor, Red Cross Buildings,
No.32, Montieth Road,
Egmore, Chennai- 600 008.
4. L.Rajesh
5. L.Surri
6. M/s.Jothi Leathers
A Partnership Firm, Rep by its Partners,
15/22A, Veerasamy Street, Periyamet,
Chennai- 600 003.

...Respondents



Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st Respondent to conduct the inquiry based on the representation dated 05.07.2021 and consequently directing the 3rd respondent not to take any action with respect to the property situated at 15/22A Veerasamy Street, Periyamet, Chennai-600 003 until a time the petitioner can effectively approach the Hon'ble Debt Recovery Tribunal under Section 17 of the SARFAESI Act to challenge the actions taken by 3rd Respondent under Sec.13 (4) of the said Act.

For the Petitioner : Mr.P.Sathyanathan

For the Respondents : Mr.P.Muthukumar,
State Government Pleader,
for RR 1 and 2

ORDER

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

The grievance of the petitioner is that the fifth respondent herein has impersonated the petitioner and has forged and fabricated documents to create mortgage of an immovable property at Padiyanallur Village of Ponneri Taluk in favour of the third respondent secured creditor.

2. It is the further case of the petitioner that the third respondent has purported to sell the property at an auction. The prayer in the petition is for a direction on the first respondent District Collector to conduct an inquiry into the matter.

3. Unfortunately, the first respondent is a public servant and is not available at the beck and call of any citizen to inquire into their affairs or their properties. It is evident that the petitioner is aggrieved by a measure adopted by the third respondent secured creditor in respect of a property that the petitioner claims to be the owner. The appropriate remedy of the petitioner lies in Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 which permits any person aggrieved of any measure adopted by a secured creditor under Section 13(4) of the Act to approach the jurisdictional Debts Recovery Tribunal.



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4. In view of the aforesaid clear statutory remedy available to the petitioner, this extraordinary jurisdiction under Article 226 of the Constitution should not have been invoked.

W.P.No.19860 of 2021 is dismissed and the petitioner is left free to pursue the petitioner's remedy in accordance with law. There will be no order as to costs.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

sra

To:

1. The District Collector of Chennai
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+1cc to the Government Pleader, S.R.No.47570

W.P.No.19860 of 2021

SV-I(CO)
RLP(27/09/2021)