



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

C.R.P.No.1708 of 2021
and C.M.P.No.13262 of 2021

J.Ashok Metha

.. Petitioner /Applicant

Vs.

1.The Authorised Officer,
Canara Bank,
Regional Office,
2nd Floor, Saratha School Compound,
Salem Azhagapuram,
Salem 636 016.

2.The Branch Manager,
Canara Bank,
Ammamet Branch,
508-509 Thiru.Ve.Kaa Road,
Salem 636 003.

.. Respondents /Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the order dated 16.07.2021 passed by the Presiding Officer Debts Recovery Tribunal, Coimbatore, in S.A. (SR).No.5429 of 2021.

For the Petitioner : Mr.K.Sathish Kumar
* * * * *

ORDER

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

There is some basis to the petitioner's grievance that despite the petitioner's assertion before the jurisdictional Debts Recovery Tribunal that no notice in respect of any measure taken by the respondent creditor under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was served on the petitioner, the DRT rejected the challenge under Section 17 of the Act out of hand merely because the possession notice had not been referred to or a copy thereof produced.



2. However, the extraordinary jurisdiction under Article 227 of the Constitution ought not to have been invoked when there is an efficacious remedy available to the petitioner by way of appeal before the Debt Recovery Appellate Tribunal. There is little dispute that the petitioner has defaulted in repaying the secured creditor after obtaining credit facilities from such creditor. It is but natural that the petitioner may be called upon to make a pre-deposit while exercising the right of appeal. However, merely because the right of appeal is hedged with the condition of pre-deposit, may not entitle the petitioner to invoke this extraordinary jurisdiction in preference to the statutory remedy that has been provided for.

3. Accordingly, C.R.P.No.1708 of 2021 is not entertained and the same is dismissed. The petitioner is left free to pursue the statutory remedy that is available in accordance with law.

C.M.P.No.13262 of 2021 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sra

To:

- 1.The Presiding Officer
Debts Recovery Tribunal
Coimbatore.
- 2.The Branch Manager,
Canara Bank, Ammapet Branch,
508-509 Thiru.Ve.Kaa Road,
Salem 636 003.
- 3.The Authorised Officer,
Canara Bank, Regional Office,
2nd Floor, Saratha School Compound,
Salem Azhagapuram,
Salem 636 016.

C.R.P.No.1708 of 2021

SRA (CO)
CB(01/09/2021)