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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.16993 of 2021

G.Sellam

.. Petitioner

Vs

1. State Bank of India
rep. By its Chief Manager
Rasipuram Branch
Rasipuram, Namakkal.

2. State Bank of India
rep. By its Branch Manager
Namakkal Branch, Dr.Sankaran Road
Namakkal District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records of the first respondent in his notice (Section 13(2) of the SARFAESI Act) dated 15.05.2021 and consequential notice (Possession Notice (Immovable property) Rule 8(1)) of the first respondent dated 4.8.2021 and to quash the same as being illegal unsustainable in law and for a consequential direction to the first respondent to issue "Loan Clearance Certificate for Loan Account No.31395822306" and release the security documents.

For Petitioner : Mr.R.Ramachandran

ORDER

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

This petition is completely misconceived as advocate for the petitioner submits that the petition has been filed to challenge a notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and also a subsequent



possession notice dated August 4, 2021 indicating that the respondent secured creditor has taken measures under Section 13(4) of the said Act.

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2. A notice under Section 13(2) of the Act is not justiciable though the noticee has a right to reply thereto and the response ought to be considered by the secured creditor and the decision thereon communicated to the borrower before the secured creditor takes measures under Section 13(4) of the Act. As to measures taken under Section 13(4) of the Act, any person aggrieved thereby may approach the appropriate Debts Recovery Tribunal with the grievance. Since there is an efficacious alternative remedy available to the petitioner and the possession notice has only been issued on August 4, 2021, there is no basis for the petitioner approaching this court in its extraordinary jurisdiction, without availing of the remedy under Section 17 of the said Act.

3. W.P.No.16993 of 2021 is not entertained. The merits of the matter have not been gone into. It will be open to the petitioner to approach the appropriate forum in accordance with law.

There will be no order as to costs. Consequently, W.M.P.Nos.18005 and 18009 of 2021 are closed.

Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To:

1. The Chief Manager
State Bank of India
Rasipuram Branch,
Rasipuram, Namakkal.



2. The Branch Manager
State Bank of India
Namakkal Branch, Dr.Sankaran Road
Namakkal District.

+1CC to Mr.R.Ramachandran, Advocate, SR.No.41144 (22/09/2021)

W.P.No.16993 of 2021

SR II(CO)
B.VC (25/08/2021)