



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.18552 of 2021

A.Mydeen Bi

...Petitioner

Vs

1 The Branch Manager
Canaran Bank
Kasturba Nagar Branch
Adyar, Chennai 20

2 M/s. Enrich Tech Store
Shop No. 39 Plaza centre No. 129 G.N. Cheety
Street Nungambakam Chennai 34

3 A.Rajalakshmi

4 S.T. Madhavan

5 Y.F.John Yesudhas

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the first respondent from taking any coercive steps or possession towards the property and direct the first respondent to give reasonable time to settle the amount.

For the Petitioner : Mr.M.Rajendiran

ORDER

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

The petitioner complains of the steps taken by the respondent secured creditor in seeking to sell an immovable property that was previously owned by the petitioner's deceased husband.



2. It is the petitioner's case that the property had been furnished as a security in connection with a loan obtained by a partnership firm or a business entity and the secured creditor has sought to proceed against the property without following the established procedure.

3. It appears from the documents relied upon by the petitioner that a notice was issued, inter alia, to the petitioner on October 28, 2020 by the secured creditor informing the noticees that the secured creditor had taken possession of the assets described in the sale notice dated October 28, 2020, which was appended to the notice. The particulars regarding the on-line auction, the reserve price set for the property and the terms and conditions for participating at the bidding were also indicated. The auction was due to be conducted on November 18, 2020.

4. Among the petitioner's myriad grievances, it appears that the perceived undervaluation of the property may be the principal concern.

5. In view of Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and such provision permitting any person aggrieved by any measure taken by a secured creditor under Section 13 (4) of the Act to carry the grievance to the jurisdictional Debts Recovery Tribunal, there was an efficacious alternative remedy available to the petitioner. In view of such statutory remedy, the petitioner could not have chosen this extraordinary jurisdiction under Article 226 of the Constitution.

6. In the above view of the matter, the writ petition is not entertained and the petitioner is left free to pursue the petitioner's remedies before the appropriate forum in accordance with law.

W.P.No.18552 of 2021 is disposed of. W.M.P.No.19790 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 Branch Manager
Canaran Bank
Kasturba Nagar Branch
Adyar, Chennai 20

+1cc to Mr.M.Rajendiran , Advocate, S.R.No.44937

W.P.No.18552 of 2021

RGN (CO)
SU (14/09/2021)