



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.18099 of 2021

A.Shankar

..Petitioner

Vs.

The Chief Manager
Asset Recovery Branch
Union Bank of India
D.No.816, 1st Floor, Oppanakara Street
Coimbatore 641 001.

..Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus directing the calling for the records of the respondent in OR/ARB/E-AUCTION//20//2021-2022 dated 16.06.2021 and quash the same as illegal and direct the Respondent herein to issue sale certificate in favour of the petitioner with respect to the said property on payment of the balance sale consideration of Rs.60,00,000/-.

For the Petitioner : Mr.Swarnam J.Rajagopalan

ORDER

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

The grievance of the petitioning auction-purchaser at an auction conducted by the respondent secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is that the initial deposit made by the petitioner has been wrongfully forfeited by the respondent secured creditor, despite the petitioner requesting the secured creditor to ensure that the sales tax notice in respect of the property was removed to enable the petitioner to pay the balance consideration.



2. In effect, it appears that the petitioner is aggrieved by a measure taken by the respondent secured creditor under Section 13(4) of the Act of 2002.

3. Section 17 of such Act permits any person aggrieved by any of the measures taken by a secured creditor under Section 13(4) of the Act to carry the grievance to the jurisdictional Debts Recovery Tribunal. In this case, the action taken by the secured creditor has to be seen to be a measure adopted under Section 13(4) of the Act to proceed against the same security by way of a further auction sale. In such a situation, the present petitioner's remedy lies before the appropriate Debts Recovery Tribunal.

4. W.P.No.18089 of 2021 is not entertained since there is an efficacious alternative remedy available to the petitioner. It is made clear that the merits of the present petition have not been gone into. The petitioner may carry the grievance to the appropriate Debts Recovery Tribunal in accordance with law. There will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

The Chief Manager
Asset Recovery Branch
Union Bank of India
D.No.816, 1st Floor, Oppanakara Street
Coimbatore 641 001.

W.P.No.18099 of 2021

PVS (CO)
RGA(03/09/2021)