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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.NO.19557 OF 2021

Usha.V

...Petitioner

Vs

1 The Bank of India
Mount Road Branch No.827 Dhun Building
Mount Road Chennai-600 002

2 G.Loganathan

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus quashing the Sale Certificate Dated 6.3.2019 vide Doc.No.1233 of 2019 issued in favour of 2nd respondent herein and consequently issue a direction to conduct fresh Auction proceedings as contemplated by the Act.

For the Petitioner : Mr.M.Rajeswaran
for Nathan and Associates

ORDER

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

The petitioner, who has defaulted in repaying the debt due to the respondent secured creditor, complains of the sale of



a secured asset conducted by the secured creditor at an apparently gross undervalue.

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2. There is no dispute that a notice dated December 5, 2018 was received by the petitioner. Such notice duly informed the petitioner that the bank had taken possession of the secured assets and intended to put up the same for sale on January 21, 2019. The relevant property was appropriately described in such notice.

3. It is evident that the bank has taken a measure under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. There is no doubt that the notice for sale was preceded by a notice issued under Section 13(2) of the Act. In any event, once a secured creditor, within the meaning of the said Act of 2002, has taken a measure under Section 13(4) of the Act, any person aggrieved, including a borrower, is entitled to carry the grievance to the jurisdictional Debts Recovery Tribunal in accordance with Section 17 of the said Act. The remedy of the petitioner, therefore, lies before such forum.

4. Accordingly, W.P.No.19557 of 2021 is not entertained as the petitioner had an efficacious alternative remedy available and ought to have availed the same. It will be open to the petitioner to approach the Tribunal in accordance with law, if time permits.

5. W.M.P.Nos.20843 and 20845 of 2021 are closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

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To

The Bank of India
Mount Road Branch No.827 Dhun Building
Mount Road Chennai-600 002.

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+1cc to M/s.Nathan and Associates, Advocate, S.R.No.47119

W.P.No.19557 of 2021

AK-II(CO)
RLP(23/09/2021)