



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.19138 of 2021

Jwalia IT Solution Pvt Ltd.
Rep.by its Director Mr.G.Vimal Raj
Old No.12, New No.23, Neelakanta
Madha Street, T.Nagar, Chennai-17.

.. Petitioner

Vs.

The Authorised Officer
State Bank of India
Teynampet, Chennai 600 018.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare that the claim of the respondent bank is barred by limitation vide application of Art 137 of the Limitation prescribing a period of 3 years for any special Act r/w Section 36 of the SARFAESI Act, declare that the respondent Bank cannot issue more than one Sec.13(2) Demand Notice and the claim would be related to that issued for the 1st time only in which the debt cannot be recrystalised of the same date, and declare that the OTS offer has to be sent every borrower and not only one to the mortgagor.

For the Petitioner : Mr.B.Gurumurthy

ORDER

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

The petitioner complains of execution proceedings being instituted before the Recovery Officer of the relevant Debts Recovery Tribunal at a belated stage. The other grievance of the petitioner is that the steps taken by the respondent secured creditor under the Securitisation and Reconstruction of



Financial Assets and Enforcement of Security Interest Act, 2002 are also barred by limitation.

2. As far as the first limb of the petition is concerned, any order passed by the Recovery Officer is amenable to appeal under Section 30 of the Recovery of Debts and Bankruptcy Act, 1993. As far as the other grievance raised, it is open to the petitioner to approach the jurisdictional Debts Recovery Tribunal under Section 17 of the Act of 2002 against any measure taken by a secured creditor under Section 13(4) of the Act of 2002.

3. Since the governing statutes in either case provide an efficacious alternative remedy to the petitioner in respect of both counts of grievance sought to be carried to this extraordinary jurisdiction, the merits of the matter are not gone into and the petitioner is left free to pursue the petitioner's remedies in accordance with law.

W.P.No.19138 of 2021 is dismissed. However, there will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sra/kst

To
The Authorised Officer
State Bank of India
Asset Recovery Management Branch,
44, Eldams Road,
1st Floor,
Teynampet, Chennai 600 018.

W.P.No.19138 of 2021

PVS (CO)
K.RK. (21.09.2021)