



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.19142 of 2021

Lingareddy Vijaya Bhaskar Reddy

... Petitioner

-vs-

The Authorised Officer,
Union Bank of India, Asset Recovery Branch,
No.139, Broadway,
Chennai- 600 108.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondent to refund the sale consideration paid by the petitioner for the extent of 80 Sq.Yards (10 Ankanams) of land encroached by third parties but sold by the Respondent vide Registered Sale Deed dated 31.12.2019 vide Document No. 12539 of 2019 in the office of the Joint Sub Registrar Nellore R.O. or in the alternative to clear the Encroachment existed even prior to the bringing of the property measuring 1472 square Yards (184 Ankanams) comprised in Survey No.1265-A, Door No.16-4/1162, 4th Lane, Haranthapuram area, Ward no.16-13, Nellore Municipal Corporation in question for auction.

For the Petitioner : Mr.T.Ramesh

ORDER

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

The petitioner claims to have purchased an immovable property at an auction conducted by the respondent secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The grievance of the petitioner is that though the sale certificate has been issued and it purports to record that peaceful possession of the property has been made over to the petitioner, no possession has, in fact, been given by the respondent secured creditor to the petitioner and the land sold is not available for possession to be handed over since a



sizable part of it is encroached.

2. Essentially, the petitioner complains of a measure taken by the secured creditor under Section 13 (4) of the Act of 2002. Irrespective of the fact that the petitioner may not be a borrower, if the petitioner is aggrieved by any step taken by the secured creditor under Section 13 (4) of the Act, the remedy of the petitioner lies before the jurisdictional Debts Recovery Tribunal under Section 17 of the Act. Section 17 of the Act permits any person aggrieved to carry the grievance to the relevant tribunal.

3. Since there is an efficacious alternative remedy available to the petitioner, the extraordinary jurisdiction under Article 226 of the Constitution should not have been invoked.

W.P.No.19142 of 2021 is disposed of without going into the merits of the petitioner's grievance and by leaving the petitioner free to carry the matter to the appropriate DRT in accordance with law. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

sra

To:

The Authorised Officer,
Union Bank of India, Asset Recovery Branch,
No.139, Broadway, Chennai- 600 108.

W.P.No.19142 of 2021

BS (CO)
GN(20/09/2021)