

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.No.16902 of 2020

and W.M.P.No.20972 of 2020

G.Thenmozhi ... Petitioner

-vs-

1.The Chief Manager,
State Bank of India,
Thirupattur Branch (Branch Code
No.00934), Thirupattur District.

2.The Branch Manager,
State Bank of India,
Krishnagiri Road (Branch Code
No.00934), Thirupattur District.

3.SBI Life Insurance, State Bank of Bhavan,
Madame Cama Road, Nariman Point,
Mumbai 400 023. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records of 1st respondent pertaining to the Notice dated 18.8.2020 issued under section 13(2) of SARFAESI Act, 2002 and quash the same.

For Petitioner : Ms.M.Malar

For Respondents : M/s.S.R.Sumathi
for RR 1 and 2

ORDER

(Made by Senthilkumar Ramamoorthy, J.)

This writ petition is directed against a notice under Section 13 (2) of the Securitisation and Reconstruction of

Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'the SARFAESI Act').

2.It is the settled legal position that a notice under Section 13 (2) cannot be challenged by way of legal proceedings. The debtor concerned is entitled to send a reply to such notice and if measures are undertaken by the creditor-bank or financial institution under Section 13 (4) of the SARFAESI Act, it is open to the debtor concerned to initiate proceedings under Section 17 of the SARFAESI Act, before the appropriate Debts Recovery Tribunal. As such, the writ petition is not maintainable.

In the result, the writ petition, W.P.No.16902 of 2020, is dismissed. The dismissal of this writ petition shall not preclude the petitioner from initiating legal proceedings under Section 17 of the SARFAESI Act, in accordance with law. No costs. Consequently, W.M.P.No.20972 of 2020 is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

1.The Chief Manager,
State Bank of India,
Thirupattur Branch (Branch Code No.00934),
Thirupattur District.

2.The Branch Manager,
State Bank of India,
Krishnagiri Road (Branch Code No.00934),
Thirupattur District.

+1cc to Mr.M. MALAR, Advocate, S.R.No.6491

SR11(CO)
SM/22/02/2021

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