



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE,CHIEF JUSTICE

AND

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

W.P.No.19478 of 2021
and W.M.P.No.20777 of 2021

N.Mahendran

...Petitioner

-vs-

Authorised Signatory

M/s. Equitas Small Finance Bank Limited,
(Formerly Known as Equitas Finance Ltd)
F-39, Spencer Plaza Mall, No.769, 4th Floor,
Phase - II, Anna Salai,
Chennai 600 002.

...Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records and quash the impugned notice of demand Ref. Damo-Sarfaesi/July/SEPONDY 0025250/14 dated 20.07.2021 issued by the respondent under Section 13(2) of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.

For the Petitioner : Mr.D.Baskar

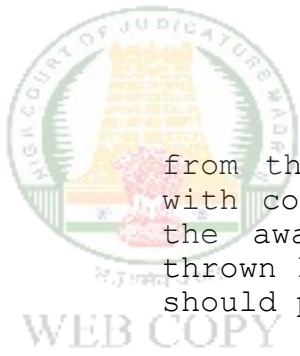
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ORDER

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

The grievance of the petitioner is that the respondent secured creditor has purported to invoke the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in respect of a transaction where such secured creditor's cause of action has merged in an arbitral award rendered on the claim of such secured creditor on July 28, 2017.

2. The award found the borrowers liable in the sum of Rs.1,45,156/- with interest at the rate of 18 per cent per annum



from the date of the claim petition till realisation, together with costs of Rs.3,000/-. It is not the petitioner's case that the award stands satisfied. Indeed, the underlying challenge thrown by the petitioner is that the respondent secured creditor should pursue its remedies for implementing the award.

3. The immediate grievance of the petitioner is upon receipt of a notice apparently issued under Section 13 (2) of the Act of 2002. Such notice is dated July 20, 2021 and it refers to a property at Chidambaram Taluk in Cuddalore and the intention of the secured creditor to proceed against the same.

4. Apart from the fact that a notice under Section 13 (2) of the said Act is not justiciable at such stage, it is only upon any measure being adopted by a secured creditor under Section 13 (4) of the Act that any person aggrieved thereby has a right to approach the appropriate Debts Recovery Tribunal with the grievance. However, a person in receipt of a notice under Section 13 (2) of the Act may furnish a reply thereto which the relevant secured creditor is obliged to consider and respond to, before initiating any action under Section 13 (4) of the Act.

5. Accordingly, since there is an efficacious alternative remedy available to the petitioner upon the respondent secured creditor resorting to any measure under Section 13 (4) of the Act of 2002, the petition is not entertained and the petitioner is left free to pursue the statutory remedy in accordance with law. W.P.No.19478 of 2021 is disposed of. W.M.P.No.20777 of 2021 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sra

+1cc to Mr.D.Baskar,Advocate,S.R.No.47032

W.P.No.19478 of 2021

NR(CO)
CT(22/09/2021)