



WEB COPY

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.19789 of 2021

M/s.Gaurav Exportraders Private Limited  
Rep by its Managing Director  
Mahesh Kumar Gupta  
No.114/2 Nesavalur Colony  
Alagesan Main Road  
Saibaba colony  
Coimbatore-641 011.

..Petitioner

Vs.

The Authorized Officer  
Tamil Nadu Mercantile Bank Ltd 364 Dr.  
Nanjappa Road  
Opp.V.O.C. Park  
Coimbatore-641 018.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the demand notice dated 20.5.2021 issued under section 13(2) of the SARFAESI Act in respect of petitioner loan account availed with the respondent bank and quash the same consequentially issue direction directing the respondent to consider the petitioner proposal of One Time Settlement offer made vide letter dated 24.8.2021.

For the Petitioner : Mr.R.Marudhachalamurthy

ORDER

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

The petition is by a borrower complaining of its one-time settlement offer given to the respondent secured creditor having been rejected by such secured creditor.



2. It is also the admitted position that a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has been received by the petitioner. It is not immediately clear as to whether any measure has been adopted by the secured creditor under Section 13(4) of the Act.

3. Ordinarily, even in the extraordinary jurisdiction under Article 226 of the Constitution, the court may not impose any terms for a banker to settle its claim against its constituent. It is completely within the domain of the banker whether or not to offer any settlement terms or to accept any proposal that may be made by the constituent in such regard. At any rate, upon a notice under Section 13(2) of the Act being issued, the secured creditor is entitled to take appropriate steps under Section 13(4) of the Act after considering any reply that may have been issued by the borrower to the notice under Section 13(2) of the Act.

4. If the petitioner is aggrieved by any of the measures adopted by the secured creditor under Section 13(4) of the Act, the petitioner may approach the jurisdictional Debts Recovery Tribunal in accordance with Section 17 of the Act. It is possible that the petitioner may urge the offer for settlement in course of such proceedings. However, the Writ Court is not excited to entertain the present grievance ahead of the statutory remedy available to the petitioner as aforesaid.

5. W.P.No.19789 of 2021 is not entertained in view of the efficacious alternative remedy available to the petitioner. There will be no order as to costs. W.M.P.No.21063 of 2021 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

The Authorized Officer  
Tamil Nadu Mercantile Bank Ltd  
364 Dr.Nanjappa Road  
Opp.V.O.C. Park  
Coimbatore-641 018.

W.P.No19789 of 2021

MG (CO)

K.RK. (22.09.2021)