

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM :

The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.19074 of 2020
and W.M.P.No.23647 of 2020

M.Ambika

... Petitioner

-vs-

1.The Branch Manager,
Bank of Baroda,
Adayar Branch, No.77, 1st Main Street,
Gandhi Nagar, Adayar,
Chennai 600 020.

2.M/s.Pooseemperumal Impex Pvt. Ltd.,
Rep. by its Directors.

3.M.Padmavathi

4.K.Arunraj Prakash

5.K.L.Raghavan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the entire records pertaining to the issuance of impugned notice dated 11.11.2020 issued by 1st respondent pertaining to bring the e-auction of the immovable property on 04.12.2020 on his file and quash the same, consequently direct the 1st respondent not to bring any auction sale of the immovable property in future pending outcome of SARFAESI proceedings in O.A.No.328 of 2020 on the file of Debts Recovery Tribunal II, Chennai.

For Petitioner

: Mr.A.D.Janarthanan

ORDER

(Made by The Hon'ble Chief Justice)

The limited prayer in the writ petition is for restraining the respondent secured creditor from taking steps to sell off a secured asset because the measures adopted by such secured creditor under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 have been challenged in a petition instituted before the appropriate Debts Recovery Tribunal.

2. Though the bank is not represented, there is no impediment to dispose of the petition.

3. For a start, the impugned notice dated November 11, 2020 is no longer relevant since it pertains to the auction sale being conducted on December 4, 2020. In any event, the Writ Court is not the appropriate forum to restrain a secured creditor from taking measures or doing things as permitted by the said Act of 2002. The petitioner ought to have made an interim application in the pending proceedings before the Debts Recovery Tribunal or otherwise requested the Debts Recovery Tribunal to take up the matter out of turn. Since the principal lis is pending before the Debts Recovery Tribunal, the matter complained of ought to be carried to the Debts Recovery Tribunal ahead of this Court.

W.P.No.19074 of 2020 is dismissed on the ground that there is an efficacious alternative remedy available to the petitioner. There will be no order as to costs. Consequently, W.M.P.No.23647 of 2020 is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Branch Manager,
Bank of Baroda,
Adayar Branch, No.77, 1st Main Street,
Gandhi Nagar, Adayar, Chennai 600 020.

2.The Debts Recovery Tribunal, Chennai.

+lcc to Mr.A.D.Janarthanan, Advocate SR.No. 27082

W.P.No.19074 of 2020

RSV(CO)

A.SK(22.06.2021)