



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.23912 of 2021

Taurus Apparels Private Limited,
rep. by its Director Vidya Sagar Yadav,
New No.57/11, Old No.26/11, Arunodhaya Complex,
Ponnamali High Road,
Chennai-600 003
Now residing at S.F.No.119/1, 2 121/A&1B, Thuthipet,
Ambur, Vellore District-635 811. .. Petitioner

Vs

1. V.Arshad Ahmed

2. M/s.Canara Bank,
rep. by its Authorized Officer,
Ambur Branch, Vellore District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus forbearing the second respondent from initiating proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 or any other law, and also forbearing the respondents from forcibly evicting the petitioner from the residential portions occupied by petitioner in pursuant to the Lease Agreement dated 15.07.2019.

For the Petitioner : Ms.Thenmozhi Shivaperumal

ORDER

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

The grievance of the petitioner is that in connection with credit facilities obtained by the first respondent landlord, the second respondent secured creditor is purporting to proceed



against the property at which the petitioner has been lawfully inducted as a tenant by the first respondent.

2. It is the admitted position that the second respondent has resorted to measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The prayer in the petition is for restraining the secured creditor from taking up proceedings against the security or disturbing the petitioner's possession of the immovable property.

3. If a secured creditor takes any measure under Section 13 (4) of the Act of 2002, the remedy of any person aggrieved by such action or measure is to approach the jurisdictional Debts Recovery Tribunal with the grievance. Section 17 of the Act is worded in a wide manner and any person aggrieved may approach the relevant DRT.

4. Since there is an efficacious, alternative remedy available to the petitioner and since any investigation into the rights of the petitioner will involve disputed facts which cannot be resolved on affidavit evidence, the writ court should not interfere in matters of the present kind.

5. Accordingly, W.P.No.23912 of 2021 is dismissed and the petitioner is left free to approach the appropriate forum in accordance with law. W.M.P.No.25236 of 2021 is closed.

6. Since the writ petition is dismissed at the admission stage, no costs are imposed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

bbr

To:

The Authorized Officer,
M/s.Canara Bank, Ambur Branch,
Vellore District.

+1cc to M/s.Thenmozhi Shivaperumal, Advocate, S.R.No.57439

W.P.No.23912 of 2021

SSV(CO)
SU(17/11/2021)