



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS. JUSTICE S.ANANTHI**

**W.P. (MD)No.1149 of 2021
and W.M.P. (MD) No.1005 of 2021
(Through Video Conferencing)**

P.Alagar : Petitioner
Vs.

1.The Authorized officer,
Canara Bank
Checkanurani Branch
Madurai District.

2.Perumal

3.P.Sureshkumar

4.P.Muthukumar : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in the impugned notice dated 11.12.2020 issued under Section 13(4) of SARFAESI Act, 2002 and quash the same and consequently direct the 1st respondent to drop all further proceedings initiated under the SARFAESI Act, 2002 with a further direction to arrange for proper partition of the property before the competent Court of law before taking any further steps pertaining to the recovery of the alleged dues payable to the loan accounts referred in the impugned notice.

For Petitioner : Mr.R.Aravindan
For Respondents : Mr.N.Dilipkumar for R1

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to file this writ petition challenging the notice issued under Section 13(4) of the SARFAESI



Act, 2002 on the premise that he is neither a borrower nor a mortgager.

2.The learned counsel appearing for the contesting respondent Bank submitted that the said submission is factually incorrect. There are two loans involving the same property mortgaged. Of the two, the petitioner is a borrower in one.

3.We do not wish to go into the said issue, though *prima facie* we are of the view that the case projected by the petitioner is factually not correct, especially when he himself has paid a sum of Rs.10,00,000/- in favour of the respondent Bank, after initiation of proceedings. Hence, we do not find any merit in this writ petition. Accordingly, the writ petition stands dismissed except directing the petitioner to approach the Debts Recovery Tribunal. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-2094[F] dated 25/01/2021)

W.P. (MD)No.1149 of 2021

Dated: 25.01.2021

(CO)

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