



WEB COPY

W.P.(MD) No.3524 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2021

CORAM:

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

and

THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P. (MD) No.3524 of 2021

and

W.M.P. (MD) No.2855 of 2021

M.Mahesh

... Petitioner

-VS-

The Authorized Officer
State Bank of India
Karur Main Branch
No.16, Old Bypass Road
Karur-639 001

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the entire records pertaining to the impugned possession notice issued by the respondent dated 22.12.2020 and quash the same consequently forbearing the respondent from in any manner dealing with the property all that part and parcel of land Ward No.3, Block No.8, 2nd Block Chinna Andan Kovil Road, AKC Layout, T.S.No.343/I-Plot No.4, measuring 3037 ½ square feet, now the said property situated at within the limits of ward No.19, Karur Municipality Corporation with specified boundaries by interfering in peaceful possession and enjoyment of the petitioner.

For Petitioner : Mr.Selvakumar.V

O R D E R

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

This is a frivolous and misconceived writ petition seeking to needlessly invoke the extraordinary jurisdiction under Article 226 of the Constitution of India, when there is statutory remedy available to the petitioner.

2. The petitioner admits to have borrowed money from the respondent bank. There is no doubt that the petitioner has failed to repay the money in terms of the relevant agreement with the secured creditor. A possession notice dated December 22, 2020 issued by the authorized officer of the secured creditor is sought to be challenged on specious grounds.



3. It is elementary that upon a secured creditor taking measures under Section 13(4) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, a right inheres in any person aggrieved thereby to approach the Debts Recovery Tribunal under Section 17 of the said Act.

WEB COPY

4. Since there is an efficacious alternative remedy available to the petitioner and any dispute between a bank and its constituent pertaining to the loans involves disputed questions of fact and detailed accounts, which cannot be conveniently gone into on affidavit evidence in summary proceedings, the petition is not entertained. The petitioner is left free to pursue the matter in accordance with law.

5. W.P.(MD) No.3524 of 2021 is dismissed as above. There will be no order as to costs. W.M.P.(MD) No.2855 of 2021 is closed.

Sd/-

Assistant Registrar (T&P)

// 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.

krk / ssl

W.P. (MD) No.3524 of 2021

and

W.M.P. (MD) No.2855 of 2021

24.02.2021

VB (05.03.2021) 2P 1C