



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2021

CORAM :

WEB COPY

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE T.S.SIVAGNANAM**

W.P. (MD) Nos.13122 to 13125 of 2021

and

W.M.P (MD) Nos.10137, 10138, 10139, 10145, 10140, 10144, 10142, 10143 of 2021

M.Geetha .. Petitioner in all Writ Petitions

Vs

1.The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
No.56 / 102, Abraham Pandither Road,
Thanjavur-613 001.

2.The General Manager,
Tamil Nadu Mercantile Bank Limited
Registered Office,
No.57, V.E.Road,
Thoothukudi-628 002.

3.The Authorized Officer,
Tamil Nadu Mercantile Bank Limited,
Tiruchirapalli Region,
(For Thanjavur Branch),
Trichy.

4.R.Thirunavukkarasu

5.T.Dhanalakshmi

6.T.Senthilkumar

7.S.Aravindhan

.. Respondents in all Writ Petitions

PRAYER in W.P(MD)No.13122 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari to call for the records in connection with the impugned Demand Notice issued by the third respondent in respect of Loan Account No.067700150950109 in proceedings No.Nil, dated 03.04.2021 and the consequential impugned possession notice in his proceedings No.Nil, dated 21.06.2021 and impugned e-Auction Sale Notice in his proceedings No.Nil, dated 05.07.2021 and quash the all as illegal.



PRAYER in W.P(MD)No.13123 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari to call for the records in connection with the impugned Demand Notice issued by the third respondent in respect of Loan Account No.067700150950122 in proceedings No.Nil, dated 03.04.2021 and the consequential impugned possession notice in his proceedings No.Nil, dated 21.06.2021 and impugned e-Auction Sale Notice in his proceedings No.Nil, dated 08.07.2021 and quash the all as illegal.

PRAYER in W.P(MD)No.13124 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari to call for the records in connection with the impugned Demand Notice issued by the third respondent in respect of Loan Account Nos.067700150950108 and 0677001150100001 in proceedings No.Nil, dated 03.04.2021 and the consequential impugned possession notice in his proceedings No.Nil, dated 21.06.2021 and impugned e-Auction Sale Notice in his proceedings No.Nil, dated 06.07.2021 and quash the all as illegal.

PRAYER in W.P(MD)No.13125 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari to call for the records in connection with the impugned Demand Notice issued by the third respondent in respect of Loan Account No.067700150950112 in proceedings No.Nil, dated 03.04.2021 and the consequential impugned possession notice in his proceedings No.Nil, dated 21.06.2021 and quash the both as illegal.

For Petitioner : MrV.Elangovan
For Respondents : Mr.N.Dilip Kumar for R-1 to R-3
(In all Writ Petitions)

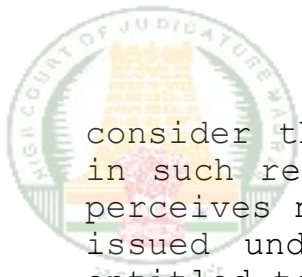
COMMON ORDER

[Order of the Court was made by *The Hon'ble Chief Justice*]

These are utterly misconceived petitions filed by an obvious defaulter to wriggle out of the obligations pertaining to repayment of a loan.

2.The challenge here is to a notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the subsequent notices pertaining to sale of the security and the other notices issued in the interregnum to obtain possession of the secured assets.

3.A notice under Section 13(2) of the Act is not justiciable. However, in accordance with Section 13(3A) of the Act, a noticee may respond to the notice, whereupon the secured creditor is obliged to



W.P.(MD) Nos.13122 to 13125 of 2021

consider the contents of the response and communicate its decision in such regard to the borrower. In the event the secured creditor perceives no defence to have been made out in response to the notice issued under Section 13(2) of the Act, the secured creditor is entitled to adopt measures under Section 13(4) of the Act.

WEB COPY

4.Any person aggrieved, including the borrower, may then approach the jurisdictional Debts Recovery Tribunal under Section 17 of the Act. Further steps taken by the secured creditor may also be challenged in the same manner before the jurisdictional Debts Recovery Tribunal.

5.Since there is an efficacious, alternative remedy available to the petitioner, no question arises of entertaining these petitions in this extraordinary jurisdiction, particularly in the light of the spirit of the Act of 2002 and the Debts Recovery Tribunal being the specialised forum to adjudicate such disputes.

6.W.P.(MD)Nos.13122 to 13125 of 2021 are dismissed and W.M.P (MD)Nos.10137, 10138, 10139, 10145, 10140, 10144, 10142, 10143 of 2021 are closed.

There will, however, be no order as to costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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

The Authorised Officer,
TMB Ltd., Tiruchirappalli Region,
(For Thanjavur Branch),Trichy.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-24811[F] dated 30/07/2021)

+1 CC to M/s.V.ELANGO VAN, Advocate (SR-25091[F] dated 03/08/2021)

W.P.(MD) Nos.13122 to 13125 of 2021

30.07.2021

AC (CO)

TR(09.08.2021) 3P 4C

<https://hcservices.ecourts.gov.in/hcservices/>