



WEB COPY

W.P.(MD)No.14922 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2021

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) No.14922 of 2021

and

W.M.P. (MD) Nos.11819 and 11820 of 2021

M.Selvendran

.. Petitioner

Vs

1.The Branch Manager/ Authorized Officer,
TamilNadu Mercantile Bank,
Theni Main Road,
Madurai-625 514.

2.The Registrar,
Debt Recovery Tribunal,
Kalyani Towers,
No.4/162, Melur Main Road,
Madurai.

3.Jayakumar

4.Pradeepa

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorary, calling for the records, pertaining to the sale certificate dated 03.08.2018, registered at Checkarnurani Sun register office as document No,1591, executed by this 1st respondent on behalf of the petitioner in favour of 3rd and 4th respondent with present D.No.6/624, in New.S.No.192 A/5A, 1A2 (0.02.00) hec with plot No.6, situated at A.Kokkulam Village, Checkanurani Panchayat, Madurai District and quash the same.

For Petitioner : Mr.F.X.Eugene

For Respondent No.1 : Mr.Pethu Rajesh

ORDER

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

The writ petition is completely misconceived.

2.The grievance of the petitioner, who stands in the position of a borrower within the meaning of the relevant word as defined in the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is that a property



that was mortgaged to the respondent-secured creditor has been sold at a meagre price.

3. Section 17 of the Act of 2002 permits any person aggrieved, including a borrower, to approach the jurisdictional Debts Recovery Tribunal upon any measure being taken by a secured creditor under Section 13(4) of the said Act.

4. Surely, the secured creditor-bank in this case must be seen to have resorted to its authority under section 13(4) of the Act to take measures in terms thereof upon the perceived failure on the part of the borrower to repay the debt due.

5. Since the act of selling the property has to be seen as a part of the measures taken under Section 13(4) of the Act of 2002, the appropriate forum for the petitioner is the Debts Recovery Tribunal having jurisdiction over the matter.

6. Accordingly, since there is an efficacious alternative remedy available to the petitioner, the writ petition is not entertained and the petitioner is left free to pursue the petitioner's remedies before such forum in accordance with law.

7. It will be open to the petitioner to make a prayer for condonation of the delay before the jurisdictional Debts Recovery Tribunal, but as to whether good grounds are made out for such purpose would be completely to the discretion of the Debts Recovery Tribunal considering the matter.

8. W.P(MD)No.14922 of 2021 is disposed of.

There will be no order as to costs. Consequently, W.M.P.(MD) Nos.11819 and 11820 of 2021 are closed.

Sd/-

Assistant Registrar (CS II)

// 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.

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



To

The Registrar,
Debt Recovery Tribunal,
Kalyani Towers,
No.4/162, Melur Main Road,
Madurai.

+1 CC to M/s.F.X.EUGENE, Advocate (SR-26964[F] dated 23/08/2021)

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-27091[F] dated
24/08/2021)

W.P. (MD) No.14922 of 2021
23.08.2021

PK(CO)
SB(01.09.2021) 3P 4C