



WEB COPY

W.P(MD)NO.16370 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)NO.16370 of 2021

and

W.M.P(MD)No.13221 of 2021

V.Srinivasan

: Petitioner

.vs.

1.The Chief Judicial Magistrate,
Ramanathapuram.

2. The Authorized Officer,
C.R. Rajamahadev,
Canara Bank, ARM Branch,
Circle Office Building,
Madurai District.

3. The Senior Manager,
Canara Bank,
Karaikudi Branch,
5-7, Sekkalai Road,
Karaikudi, Sivagangai District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorarified Mandamus, to call for the records of the order in Cr.M.P.No. 901 of 2020, dated 06.03.2021 of first respondent and the second respondent's sale notice, dated 14.08.2020 and declare that the entire SARFAESI proceedings against the petitioner as illegal and consequently to direct the respondents to restore the possession of the petitioner's house property in Old.No.103, New.No.1/85, North Street, Thiruvadanai, Ramanathapuram District - 623 407, within the time stipulated by this Court.

For Petitioner :Mr.M.Mohamed Sherbudeen

For Respondents :Mr.N. Dilip Kumar
2 and 3

O R D E R

[Order of the Court was made by **M.DURAI SWAMY., J.**]

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified Mandamus, to call for the records of the order made in Cr.M.P.No. 901 of 2020, dated 06.03.2021 of first respondent and the second respondent's sale notice, dated 14.08.2020



and to declare that the entire SARFAESI proceedings against the Petitioner and to quash the entire SARFAESI proceedings and consequently, to direct the respondents to restore the possession of the petitioner's house property in Old.No.103, New.No.1/85, North Street, Thiruvadanai, Ramanathapuram District, within a time frame.

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2.The petitioner is challenging the order passed by the Chief Judicial Magistrate, under Section 14 of the SARFAESI Act as well as the sale notice, dated 14.08.2020. Admittedly, the sale was conducted and the sale certificate was issued as early as on 21.10.2020, in favour of the auction purchaser.

3.So far as the order passed by the Chief Judicial Magistrate is concerned, the remedy open to the petitioner is to file an appeal under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal. However, the petitioner, without exhausting the alternative remedy, has chosen to file the present Writ Petition under Article 226 of the Constitution of India.

4.The Honourable Supreme Court of India, has repeatedly held that the High Courts should not entertain Writ Petitions filed under Article 226 of the Constitution of India circumventing the alternate remedy available to the aggrieved parties under the SARFAESI Act.

5.In such view of the matter, we are not inclined to entertain the present Writ Petition. Accordingly the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn/lr

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.The Chief Judicial Magistrate, Ramanathapuram.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-28885[F] dated 13/09/2021)

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13.09.2021