



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.12.2021

CORAM:

**THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MRS. JUSTICE S.SRIMATHY**

**W.P(MD)No.23322 of 2021
and
W.M.P(MD)No.19777 of 2021**

1.Jeyaram

2.J.Mangalam

.. Petitioners

Vs.

1.The Authorised Officer,
Tamilnad Mercantile Bank Ltd.,
Nagaercoil Branch,
229-A, Charles Miller Street,
College Road,
Nagercoil.

2.The Branch Manager,
Tamilnad Mecantile Bank Ltd.,
Nagaercoil Branch,
229-A, Charles Miller Street,
College Road,
Nagercoil.

3.R.Kumar

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus, to set aside the entire SARFAESI Proceedings initiated by the Respondent Bank ending up with the issuance of Auction Sale Notice, dated 07.01.2021 and the auction sale held on 25.01.2021 and the consequential Sale Certificate issued on 16.06.2021 in favour of the 3rd respondent for the schedule mentioned properties.

For Petitioners : Mr.Niranjana S.Kumar

For R1 and R2 : Mr.N.Dilip Kumar
Standing Counsel



ORDER

[Order of the Court was made by **C.V.KARTHIKEYAN, J.**]

The writ petitioners have been in litigation with the first and second respondents for quite some time. They have borrowed a loan in the year 2007 and thereafter recovery proceedings had been initiated in manner known to law. Further, the Debts Recovery Tribunal had also passed an order crystalising the amount due and calling upon the petitioners to pay the amount due. Thereafter, proceedings under Section 13(4) of SARFAESI Act was also initiated. Questioning the procedure adopted and also the orders passed, the petitioners had landed out before the Debts Recovery Tribunal by filing S.A.362 of 2021. It is still pending before the Debts Recovery Tribunal.

2. Since S.A.362 of 2021 is pending, it would be extremely inappropriate on our part to examine the rival contentions placed before us by Mr.Niranjan S.Kumar, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel, who had taken notice on behalf of the respondents 1 and 2.

3. One of the main grievances raised by Mr.Niranjan S.Kumar is that the Debts Recovery Tribunal has adjourned the matter to 07.07.2021 and that according to him, is the disadvantage of the petitioners due to the fact that further proceedings are being continued by the respondents. It is however urged by Mr.N.Dilip Kumar, learned Counsel for the respondent Bank that substantial subsequent proceedings have been initiated by orders being passed by the Chief Judicial Magistrate and consequential orders of taking possession also being passed.

4. Let us not enter into a discussion on those issues, but place a burden on the petitioners herein to file necessary application to advance the hearing and if such an application is filed, an onus is placed on the Debts Recovery Tribunal at Madurai, which, as a matter of fact is being conducted by the Debts Recovery Tribunal, Coimbatore, to consider the advance hearing application and after following due procedure, take a determined effort to dispose of the applications, which should be effectively disposed of within a period of two months from the date of filing of the advance hearing application. No further directions can be issued, but a caveat is placed on all the parties to participate during the proceedings conducted by the Debts Recovery Tribunal.

5. In view of the nature of the order passed, notice is dispensed with to the third respondent herein.



6.With the above directions, this writ petition is disposed of.
No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

PJL/SN

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 Presiding Officer, Debt Recovery Tribunal
Madurai.

2.The Presiding Officer, Debt Recovery Tribunal,
Coimbatore.

+1 CC to M/s.NIRANJAN S KUMAR, Advocate (SR-40526[F] dated
29/12/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-40552[F] dated 31/12/2021)

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29.12.2021

NSN(CO)
KB(06.01.2022) 3P 5C