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W.P.No.7324 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7324/2020 and WMP.No.8754/2020

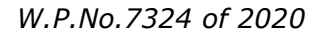
L.Prabhakar
Petitioner

..

vs.

1. The District Collector,
Chennai District,
Chennai.
2. The Tahsildar,
Sholinganallur Taluk,
Sholinganallur.
3. The Senior Manager/Chief Manager,
M/s.J.M.Finance Asset Reconstruction
Company Private Limited,
No.208, M2, Singapore Plaza,
No.164, Linghi Chetty Street,
Chennai-600 001.

.. Respondents





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2. Learned Counsel appearing for the petitioner would submit that when a sum of Rs.6,00,00,000/- was borrowed from the State Bank of India, George Town, Chennai, by the partnership firm, namely, M/s.Hema Enterprises, the petitioner stood as one of the guarantors for the said loan and the partnership firm repaid only Rs.1,10,00,000/-, however, for default, they issued notice of Assignment dated 02.04.2014 to the 3rd respondent under Section 6(1) of the SARFAESI Act followed by Auction Sale Notice under Section 13(4) of the SARFAESI Act. Therefore, when sale notice was issued, the same was questioned by the petitioner by filing Securitization Appeal in S.A.No.21/2015 and the learned Debts Recovery Tribunal-II, Chennai has allowed the said S.A.No.21/15 by an order dated 21.07.2017 on the premise that the mandatory provision under Rule 9(1) of the SI (E) Rules has not been complied with by the respondent bank. Therefore, the Auction Sale Notice and the subsequent acts pursuant to the said Auction Sale notice were set aside. As against the same, the 3rd respondent herein filed an appeal before the Debts Recovery Tribunal, Chennai and the same



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was also allowed. In the meanwhile, the 3rd respondent approached the 1st respondent under Section 14 of the SARFAESI Act to get physical possession and without any notice, the 1st respondent passed an order dated 06.02.2020 and without communicating the same to the petitioner, the 2nd respondent issued the present impugned order dated 03.03.2020. Further, some of the properties belonging to the petitioner were also sold in auction. Therefore, the petitioner has been advised to approach this Court by challenging the impugned order dated 03.03.2020 passed by the 2nd respondent herein.

3. Heard Mrs.R.Anitha, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.R.Sugumaran, learned Counsel for 3rd respondent.

4. On the face of the records, we do not find any merit in this writ petition. The reason is quite simple. When the learned Counsel for the petitioner admits before this Court that the order passed by the learned



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Debts Recovery Tribunal No.II, Chennai, in S.A. No.21/2015 dated 21.07.2017 was reversed by the learned Debts Recovery Appellate Tribunal, Chennai, he has to work out his remedy in the manner known to law by challenging the said order before the DRAT. Without exhausting the said remedy, the petitioner cannot approach this Court challenging the order dated 03.03.2020 passed by the 2nd respondent herein.

5. In the result, the writ petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

(T.R.,A.C.J.) (D.K.K, J.)

01.12.2022

Index : Yes/No
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To

1. The District Collector,
Chennai District, Chennai.
2. The Tahsildar,
Sholinganallur Taluk,



Sholinganallur.

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THE HON'BLE ACTING CHIEF JUSTICE

AND

D.KRISHNAKUMAR, J.,

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