



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2022

Coram:

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THE HONOURABLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.13067 of 2022

and

W.M.P.Nos.12464 and 12465 of 2022

1. Suresh
2. Santhanalakshmi .. Petitioners

Vs.

1. The Authorized Officer,
Union Bank of India,
Sankaranpalayam Branch,
No.11/29, Sainathapuram,
Vellore-632 001.

2. The Sub-Registrar,
Walaja Nagar,
Walaja Taluk,
Ranipet District.

3. Akbar Mohammed Abdul Rahim,
Fathima Leathers,
Plot No.477/11, Ranipet,
Backside to Coramandal Leathers,
Mukuntharayapuram Village,
SIPCOT, Ranipet.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the issue of sale certificate dated 18.06.2021 duly executed by the Authorised Officer, Union Bank of India, Sankaranpalayam Branch, No.11/29, Sainathapuram, Vellore-632 01, the first respondent herein, in favour of the third respondent, vide Document No.4749 of 2021 on the file of Sub-Registrar, Walaja pertaining to the petitioners' property comprised of house, ground and premises bearing Door No.23, Bazaar Street, Walajapet, within Survey No.1052/1C, 1053/1, Block No.17, Ward No.2, Walaja Town, Walaja Taluk, Ranipet District, in all measuring 2112 Sq.Ft. and quash the



same and consequently direct the respondents 1 and 3 to re-convey the said property to the petitioners on receipt of the entire dues inclusive of the cost of registration and other incidental charges if any.

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For petitioner : Mr.D.Ashok Kumar

ORDER

(The Order of the Court was made by The Honourable Chief Justice)

The first petitioner is the borrower and the second petitioner is a co-applicant and guarantor for the loan obtained from the first respondent-Bank and on account of default in making payment, the account was declared to be Non-performing Assets (NPA).

2. The petitioners admit that a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), followed by the notice under Section 13(4) of the SARFAESI Act, were issued to the petitioners, followed by auction sale. The petitioners did not take the remedy of appeal to challenge the notice under Section 13(4) of the SARFAESI Act, even after the confirmation of the sale and registration of sale deed.

3. Prayer is now made to re-convey the properties in question, as the petitioners are willing to settle and satisfy the amount borrowed by them from the first respondent-Bank.

4. The prayer aforesaid cannot be accepted now, after registration of the sale deed in favour of a third party. It cannot be challenged in the Writ Jurisdiction, because, the sale deed can be challenged only by maintaining a suit for its cancellation, and otherwise, there is nothing against the third respondent, as he has participated in the auction proceedings and purchased the properties in question after satisfying the amount and the sale deed has also been registered in his favour.

5. Taking into consideration the aforesaid facts, it is seen that the petitioners failed to take the remedy of appeal under Section 17 of the SARFAESI Act, when the notice under Section 13 (4) of the SARFAESI Act was issued.



6. Hence, nothing now survives for consideration in this Writ Petition. Finding no merits, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, W.M.Ps. are closed.

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Sd/-

Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

CS

To

1. The Authorized Officer,
Union Bank of India,
Sankaranpalayam Branch,
No.11/29, Sainathapuram,
Vellore-632 001.

2. The Sub-Registrar,
Walaja Nagar,
Walaja Taluk,
Ranipet District.

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CA(CO)
GMY(22/06/2022)