



W.P. No.33255 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2022

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.33255 of 2022

1.Saraswathi

2.Lakshmi Pathi Raj B

... Petitioners

Vs

Bank of India

Rep. by its Assistant General Manager- cum- Power Agent

Gandhipuram Branch

No.41/46, Ground Floor,

DBMS Arakattalai Building Complex

7th Street, Tatabad,

Coimbatore 641 012.

... Respondent

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records pertaining the same as arbitrary and illegal and further direct the respondent to accept the entire loan consideration to the tune of Rs. 7 73 45 566. 40 with interest and other charges from the petitioner herein within a period of 3 months or any time limit as fixed by this Honble Court and close the loan accounts bearing Nos. 7630110000087, 817665710000004, 817670410000119 and further direct the respondent to hand over possession of the properties given as collateral security to the petitioner herein and declare the same as encumbrance free.



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*For Petitioner : Mr.R.Singaravelan,
Senior counsel,
for Mr.M.Harish Kumar*

ORDER

(Made by the Hon'ble Acting Chief Justice)

The prayer made in the writ petition is untenable and the writ petition should be rejected for the following reasons.

1. Firstly, auction is scheduled to be held today and petitioner has rushed to this court at the last moment and urgent orders are sought for. We do not find any justification in this type of rushing, bypassing the statutory authorities viz., Debts Recovery Tribunal and Debt Recovery Appellate Authority;
2. Secondly, even the Debts Recovery Tribunal would not be in a position to entertain this type of request, even if it is genuine and a Sarfaesi Application is made on the date when auction sale is slated for taking place;
3. Thirdly, when parties are having effective, efficacious and alternative statutory appeal, invocation of extraordinary powers conferred on this court under Article 226 of the Constitution of India is unacceptable.



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2. Therefore, for the above reasons, this writ petition is dismissed. However, liberty is given to the petitioner to workout his remedy in the manner known to law. There is no order as to costs in the writ petition. WMP Nos.32690 and 32688 of 2022 are closed.

(T.R., ACJ.) (D.B.C., J.)
09.12.2022

Index: Yes/No
tar

To

The Assistant General Manager- cum- Power Agent
Bank of India
Gandhipuram Branch
No.41/46, Ground Floor,
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and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

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