



WEB COPY

W.P(MD)No. 6105 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No. 6105 of 2022

S.Balasubramanian

.. Petitioner

Vs

1.The Branch Manager,
Repco Home Finance Ltd.,
South Main Street,
Thanjavur.

2.The Authorized Officer,
Repco Home Finance Limited,
Alexander Square, No.2,
(Old Nos.34 & 35), Third Floor,
Sardar Patel Road,
Guindy,
Chennai - 600 032.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to refund the sum of Rs.10,35,250/- (Rupees Ten Lakhs Thirty Five Thousand Two Hundred fifty only) deposited by the petitioner with the respondents herein being 25% of the same proceeds in respect of the E-Auction Sale Notice in S.No.10/122 dated 20.10.2020 together with interest at 12.5% p.a. till date of realisation.

For Petitioner : Mr.S.Srinivasa Raghavan

ORDER

[Made by R.VIJAYAKUMAR, J.]

The present writ petition has been filed seeking a Writ of Mandamus directing the bank to refund the security deposit made by the petitioner at the time of e-auction on the ground that he was not able to pay the balance amount and complete the sale process.

2. We find that, the present writ petition is not maintainable in view of the availability of the alternative remedy for the auction-purchaser before Debts Recovery Tribunal. The Hon'ble Supreme Court of India in the case of *Agarwal Tracom Pvt. Ltd. vs. Punjab National Bank* reported in (2018) 1 SCC 626, has held that any action taken by the bank under Rule 9(5) of the Security



Interest (Enforcement) Rules, 2002 is also amenable to the jurisdiction of the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. The petitioner is given liberty to approach the Debts Recovery Tribunal within a period of 45 days from the date of receipt of a copy of this order.

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3. The writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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+1 CC to M/s.S. SRINIVASA RAGHAVAN, Advocate (SR-16600[F] dated 05/04/2022)

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