



W.P(MD)No.22651 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.22651 of 2022

and

WMP(MD)Nos.16811 and 16814 of 2022

M/s.Siva Traders,
Represented by its Proprietor,
Mr.Chandrasekar,
No.8/5/151 Railway Station Road,
Vadamadurai-624802,
Dindigul District.

... Petitioner

VS.

1. The Authorised Officer,
Canara Bank,
Vadamadurai Branch,
Vadamadurai-624802,
Dindigul District.

2. The Branch Manager,
Canara Bank,
Vadamadurai Branch,
Vadamadurai-624802,
Dindigul District.

3. Mala

... Respondents

1/5



W.P(MD)No.22651 of 2022

WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, praying to call for the records pertaining to the alleged sale certificate dated 15.12.2021 vide Document No.6670 of 2021 book no.1/Vadamadurai Sub Registrar Office, executed by the 2nd respondent in favour of the 3rd respondent in exercise of the powers conferred under Section 13(12) of SARFAESI Act, 2002 r/w Rules 8 & 9 of Security Interest (Enforcement) Rules, 2002.

For Petitioner : Mr.Veera Kathiravan, Senior Counsel, for
Mr.M.Vivek Bharathi
For R1 & R2 : Mr.Pethu Rajesh
For R3 : Mr.G.Chandrasekar

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

The prayer in the writ petition is for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the alleged sale certificate dated 15.12.2021 vide Document No.6670 of 2021 book no.1/Vadamadurai Sub Registrar Office, executed by the 2nd respondent in favour of the 3rd respondent in exercise of the



W.P(MD)No.22651 of 2022

powers conferred under Section 13(12) of SARFAESI Act, 2002 r/w Rules 8 & 9 of Security Interest (Enforcement) Rules, 2002.

2. Learned counsel for the petitioner submitted that the mandatory requirements of 30 days notice prior to the proposed date of sale to the borrower/mortgagor have been violated and the same has not been published in two newspapers having substantial circulation in the locality and therefore, the impugned sale is vitiated and consequently, the sale certificate is liable to be set aside.

3. If according to the petitioner, the respondent Bank has violated the aforesaid mandatory requirements, the petitioner ought to have approached the Debts Recovery Tribunal, but without exhausting the remedy before the Debts Recovery Tribunal, the petitioner has filed this writ petition before this Court challenging the sale certificate. Prima facie, the prayer in this writ petition cannot be entertained.



W.P(MD)No.22651 of 2022

WEB COPY

4. Thus, the Writ Petition is disposed of granting liberty to the petitioner to approach the Debts Recovery Tribunal for appropriate relief, if so advised. If any application is filed by the petitioner, while calculating limitation, the Debts Recovery Tribunal shall exclude the period of pendency of this writ petition before this Court and if it is otherwise in order, the Tribunal may entertain the application. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K.,J.] & [R.V.,J.]
14.12.2022

Index : Yes / No
Internet : Yes
bala



WEB COPY



W.P(MD)No.22651 of 2022

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

bala

ORDER MADE IN
W.P(MD)No.22651 of 2022
DATED : 14.12.2022