



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2022

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P (MD)No.21342 of 2021

and

WMP (MD)Nos.17901 and 17902 of 2021

WEB COPY

Mrs.Vijayaa Varadhrajan

... Petitioner

vs.

Canara Bank,

Represented by its Chief Manager/Authorized Officer,

Anbagam Building, Puthur, Trichy,

Trichy District.

... Respondent

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned possession notice dated 21.10.2021 issued by the respondent and quash the same.

For Petitioner : Mr.B.Rajesh Saravanan

For Respondents : Mr.C.Deepak

ORDER

(Order of the Court was made by

PUSHPA SATHYANARAYANA, J.)

By this writ petition, a challenge is made to the possession notice dated 21.10.2021 issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [hereinafter 'the Act' for brevity] read with Rules 8 and 9 of the Security Interest (Enforcement) Rules, 2002.

2. The petitioner is having remedy of appeal under Section 17 of the Act, but without maintaining an appeal before the Debts Recovery Tribunal [hereinafter 'DRT' for brevity], this writ petition has been filed. The precise reason for filing of this writ petition is the absence of the Presiding Officer at DRT, Madurai. The ground aforesaid could have been taken only after filing the appeal as otherwise it has to be within the limitation provided under Section 17 of the Act. It is more so, when in the absence of the Presiding Officer at DRT, Madurai, matters are being taken up by DRT, Coimbatore on Fridays.



3. In view of the above, the petitioner prays for withdrawal of the writ petition with liberty to file an appeal before the DRT, Madurai.

4. The petitioner is directed to file appeal within a week from the date of receipt of a copy of this order. This writ petition is filed within the period of limitation. The time taken in prosecuting this writ petition may be excluded while calculating the period of limitation for filing the appeal and the DRT, Madurai, is directed to entertain the appeal, treating the same to be within the period of limitation and number the appeal, if it is otherwise in order and transmit the matter to DRT, Coimbatore, for hearing. Till such time, there will be an order of stay of dispossession.

5. The writ petition is disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (WRITS)

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Sub Assistant Registrar(CS)

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To

1.The Presiding Officer,
Debt Recovery Tribunal, Madurai.

2.The Presiding Officer,
Debt Recovery Tribunal, Coimbatore.

W.P(MD)No.21342 of 2021

DATED : 04.01.2022

NSN(CO)

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