



WEB COPY



WP No.2631 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.2631 of 2023

K.Kalpana

... Petitioner

versus

1 Housing Development Finance Corporation Ltd
Corporate Identity Number L 70100MGH1977PLCO19916
PAN No.AAACH0997E
Represented by its Authorized Officer
Second Floor, ITC Centre
760, Anna Salai, Chennai 2.

2 Karthikeyan L

3 The Sub Registrar
Kundrathur Registration Officer
Kundrathur, Chennai 600 069

4 M/s Bank of Baroda
Represented by the Branch Manager
Arcot Road Branch, Vadapalani,
Chennai 600 026

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to quash the same sale certificate dated 30.12.2022 under Rule 9(6) under SARFAESI Act 2002 issued by the 1st respondent to the 2nd respondent registered as Doc.No.27095 of 2022 dated 30.12.2022 registered with the SRO, Kundrathur and forbearing the 1st



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respondent from invoking Sarfaesi Act for the Loan Account number 631012969 and selling the property of the petitioner at Plot No.14, Door No.51, in ICL Home Town Phase II (Layout approved by MMDA vide approved No.PPD/Lo.No.80/1992) comprised in S.No.126/2, 126/2K, situated at Nombal Vilalge previously Saidapet Taluk then Ambattur Taluk then maduravoyal Taluk now Poonamallee Taluk, previously Chengalput District now Thiruvallur District, measuring 2400 sq.ft. with built up area of ground floor 1440 sq.ft.

For the Petitioner : Ms.S.Kala

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition seeking a Writ of Certiorarified Mandamus to quash the sale certificate dated 30.12.2022 under Rule 9(6) under SARFAESI Act 2002 issued by the first respondent to the second respondent and for other consequential reliefs.

2. It is the case of the petitioner that she and her husband borrowed a sum of Rs.75 Lakh from the first respondent bank on 10.06.2017. Subsequently, the petitioner and her husband availed a further loan of Rs.1,09,95,279/-. Since there was a default in repayment of the loan amount, a notice under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was issued by the first respondent bank. Pursuant thereto, a sale notice was also issued. Aggrieved, the petitioner filed SA No.193 of 2021, before the Debts Recovery Tribunal III, Chennai, raising all the grounds. Realising that the sale notice cannot be sustained, the first respondent withdrew



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the sale notice on 14.03.2022 with liberty to proceed afresh. Subsequently, second sale notice dated 25.04.2022 was issued giving 15 days' time to the petitioner to settle the amount. Instead of challenging the said sale notice, the petitioner has come to this Court on the ground that the first respondent bank without even holding public auction in the manner known to law, has sold away the property, by entering into a third party agreement.

3. The petitioner has already approached the Debts Recovery Tribunal III, Chennai, challenging the first sale notice dated 08.09.2020. The petitioner cannot bypass the Debts Recovery Tribunal and invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. Giving liberty to the petitioner to workout her remedy in the manner known to law before the Debts Recovery Tribunal, this writ petition is dismissed. There will be no order as to costs. Consequently, WMP No.2701 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
07.02.2023

Index : Yes/No
Neutral Citation : Yes/No
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T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

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