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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4517 of 2023

and W.M.P.No.4528 of 2023

P.Saravana Prabhu .. Petitioner

Vs

1.The Authorized Officer,
M/s.Indian Overseas Bank,
Thirunagar Colony Branch,
No.52-A, Meenakshisundaram Street,
Erode-638 003.

2.M/s.Indian Overseas Bank,
Thirunagar Colony Branch,
No.52-A, Meenakshisundaram Street,
Erode District,
rep. by its Authorised Officer & Chief Manager,

3.R.Kumarasamy .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records pertaining to the impugned sale certificate dated 9.3.2022 issued by the first

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respondent Bank in favour of the 3rd respondent, registered as Document No.969 of 2022 before the Sub-Registrar Office, Surampatti, Erode District and quash the same.

For the Petitioner : Mr.R.Abdul Mubeen

For the Respondents : Mr.V.Kathirvelu
for respondent Nos.1 and 2

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed challenging the sale certificate dated 9.3.20222 issued by the first respondent bank in favour of the third respondent.

2. The petitioner is a borrower and the challenge in this writ petition is to the sale certificate. If the petitioner is aggrieved by the issuance of the sale certificate, he has to approach the Debts Recovery Tribunal invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "*the SARFAESI Act*"]. Without

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exhausting such alternative remedy, the writ petition is not maintainable.

3. The Supreme Court in *State Bank of Travancore Vs. Mathew K.C., (2018) 3 SCC 85*, emphatically held that in view of the availability of statutory alternative remedy under Section 17 of the SARFAESI Act before the Tribunal and under Section 18 before the Appellate Tribunal, a writ petition under Article 226 of the Constitution of India ought not to be entertained.

4. In view of the above, the writ petition is dismissed. However, liberty is granted to the petitioner to approach the Debts Recovery Tribunal in accordance with law. There will be no order as to costs. Consequently, W.M.P.No.4528 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
15.02.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

1.The Authorized Officer,
M/s.Indian Overseas Bank, Thirunagar Colony Branch,
No.52-A, Meenakshisundaram Street,
Erode-638 003.

2.The Authorised Officer & Chief Manager,
M/s.Indian Overseas Bank,
Thirunagar Colony Branch,
No.52-A, Meenakshisundaram Street,
Erode District.

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THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

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W.P.No.4517 of 2023

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