



WEB COPY



W.P.Nos.4752 & 4756 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.4752 & 4756 of 2023

1. M/s Al Ameen International Limited
represented by its Managing Director
"Milano Orchard" Flat No.B901
No.165/2A, 166/2, GST Main Road
Urapakkam, Chennai 603 202

2. Mr.Abdullah Sarwar

3. Mrs.Arifa Abdullah

4. Ms.Sana Abdullah

5. Ms.Zoha Abdullah

.. Petitioners in both the W.Ps

-VS-

Authorised Officer
State Bank of India
Stressed Assets Recovery Branch
represented by its Assistant General Manager
Red Cross Buildings
32, Red Cross Road
Egmore, Chennai 600 008

.. Respondent in both the W.Ps



W.P.Nos.4752 & 4756 of 2023

Petitions under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the respondent in the impugned auction sale notice SARB/SAK/2022-23/786 dated 23.01.2023 and SARB/SAK/2022-23/787 dated 23.01.2023 respectively, fixing the sale on 18.02.2023 under Section 13(4) of the SARFAESI Act, quash the same.

For Petitioners :: Mr.A.Thiagarajan

For Respondent :: Mr.M.L.Ganesh

ORDER

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

W.M.P.Nos.4756 & 4759 of 2023 praying to permit the petitioners to join together and file a single writ petition, are allowed as prayed for, as separate Court fee has been paid.

2. These writ petitions have been filed challenging the impugned auction sale notice bearing Nos.SARB/SAK/2022-23/786 dated 23.01.2023 and SARB/SAK/2022-23/787 dated 23.01.2023 respectively, issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 read with the proviso to Rule 8(6) of the Security Interest (Enforcement) Rules 2002, notifying the date of



W.P.Nos.4752 & 4756 of 2023

e-auction sale on 18.02.2023 and to quash the same.

WEB COPY

3. When the matters were taken up, Mr.M.L.Ganesh, learned counsel appearing for the respondent submitted that the present writ petitions challenging the impugned e-auction sale notice are neither legally maintainable nor sustainable, because the petitioners, challenging the possession notice dated 13.07.2021 on the ground that the notice was not served on the borrowers/guarantors in the manner known to law, had already approached the Debts Recovery Tribunal-I, Chennai by filing S.A.No.221 of 2021. The said matter was transferred to the file of the Debts Recovery Tribunal-II and re-numbered as T.S.A.No.12 of 2022, which has also been subsequently dismissed by the order dated 13.01.2023. When the respondent Bank proposed to sell away the 27 flats specified in the schedule to the sale notice dated 20.12.2022, after selling away 11 flats only, they have once again re-notified the unsold flats in the present impugned sale notice dated 23.01.2023. If at all the petitioners have any grievance, they should approach the Debts Recovery Tribunal-II, Chennai and cannot come



W.P.Nos.4752 & 4756 of 2023

WEB COPY

to this Court by way of filing the writ petitions under Article 226 of the Constitution of India, sidelining the Debts Recovery Tribunal, for the reason that they have already suffered an order.

4. We also find merits on his submissions. When the petitioners had already approached the Debts Recovery Tribunal-I challenging the possession notice dated 13.07.2021 in S.A.No.221 of 2021, the said matter, on being transferred to the file of the Debts Recovery Tribunal-II, Chennai and re-numbered as T.S.A.No.12 of 2022, has been dismissed by the order dated 13.01.2023. Thereafter, when the respondent Bank has issued the impugned sale notice dated 23.01.2023 fixing the date of e-auction sale on 18.02.2023 for the unsold flats, as they were able to sell away only 11 flats in pursuance of the sale notice dated 20.12.2022, the petitioners, if aggrieved, ought to have approached the Debts Recovery Tribunal-II, Chennai and they ought not to have come to this Court sidelining the Debts Recovery Tribunal-II, for the reason that they had suffered an order dated 13.01.2023 in T.S.A.No.12 of 2022. Therefore, the writ petitions are



W.P.Nos.4752 & 4756 of 2023

WEB COPY

dismissed. It is for the petitioners to workout their remedy in the manner known to law. Consequently, W.M.P.Nos.4758 & 4760 of 2023 are also dismissed. However, there shall be no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

16.02.2023

SS

To

1. The Authorised Officer /
Assistant General Manager
State Bank of India
Stressed Assets Recovery Branch
Red Cross Buildings
32, Red Cross Road
Egmore
Chennai 600 008



WEB COPY



W.P.Nos.4752 & 4756 of 2023

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

SS

W.P.Nos.4752 & 4756 of 2023

16.02.2023