



WP No.5527 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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- 1 M/s. Robust Clothing Company,  
A Partnership firm Rep. by its Partners  
Nos.21, 22, Amarjothi Bhuvaneswari Nagar  
Periyandipalayam, Tirupur 641 687
  - 2 SenthilKumar
  - 3 Radhika ... Petitioners
- Vs
- 1 The Authorised Officer  
M/s. Indian Overseas Bank  
Tirupur Main Road  
122 Kumaran Road, Tirupur 641 601
  - 2 M.Senthilkumar
  - 3 C.M.Lakshmanamoorthy ... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Declaration to declare the sale of petitioners' agricultural land situated at S.F.No.615/1A Patta No.3457 South Avinasipalayam Village, Tirupur South Taluk, admeasuring 2.10 Acres (0.85 hectares) and S.F.No.615/1B Patta No.3457 South Avinasipalayam Village, Tirupur South Taluk, admeasuring 1.94 acres



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(0.78.50 hectares) by E Auction dated 23.12.2022 in favour of 2<sup>nd</sup> and 3<sup>rd</sup> respondents by the 1<sup>st</sup> respondent as null and void arbitrary as agricultural land is exempted from SARFAESI proceedings under Sec. 31(j) of SARFAESI Act.

For the Petitioner : Mr.P.Saravanan

ORDER

(Made by the Hon'ble Acting Chief Justice)

This writ petition has been filed for the issuance of a writ of declaration to declare that the petitioners' agricultural lands situated at S.F.No.615/1A Patta No.3457, South Avinasipalayam Village, Tirupur South Taluk, ad-measuring 2.10 Acres (0.85 hectares) and S.F.No.615/1B Patta No.3457, South Avinasipalayam Village, Tirupur South Taluk, ad-measuring 1.94 acres (0.78.50 hectares), sold by e-auction in favour of respondents 2 and 3, by the first respondent, as null and void, as agricultural lands are exempted from SARFAESI proceedings under Section 31(j) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Learned counsel for the petitioners would submit that when the first respondent bank had issued sale notice dated 01.12.2022, the



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petitioners approached the Debts Recovery Tribunal, Coimbatore, and filed SA No.1167 of 2022, to set aside the same. The said application is pending. During the pendency of SA No.1167 of 2022, sale was completed by the respondent bank. Therefore, learned Tribunal had directed the petitioners to implead the auction purchasers in the pending application. Based on the direction given by the Tribunal, the petitioners have also filed a petition to implead the auction purchasers as respondents. According to the petitioners, now, they have got money to pay the entire outstanding dues. Therefore, they have filed the present writ petition.

3. We are unable to entertain the writ petition since the petitioners have already gone before the Tribunal, by filing Sarfaesi Application, challenging the validity of the sale notice dated 01.12.2022. The application is admittedly pending. Since the sale has taken place, the petitioners have filed a petition to add the auction purchasers as necessary parties. When the Sarfaesi application is pending consideration, it is not known how the petitioners have filed this writ petition, as pendency of any proceeding before the competent court of law would not allow invocation of Article 226 of the



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Constitution of India. Initiation of parallel proceedings when an application is pending for the same relief, is not legally permissible.

4. Therefore, the writ petition is dismissed with liberty to the petitioners to move the Debts Recovery Tribunal, Coimbatore. There will be no order as to costs. Consequently, WMP No.5548 and 5549 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)  
27.02.2023

Index : Yes/No  
Neutral Citation : Yes/No  
tar

**Office to note:**

Issue order copy by 28.02.2023.



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To  
WEB COPY

- 1 The Authorised Officer  
M/s. Indian Overseas Bank  
Tirupur Main Road  
122 Kumaran Road, Tirupur 641 601



WEB COPY



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T.RAJA, ACJ,  
and  
D.BHARATHA CHAKRAVARTHY, J.

(tar)

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