



W.P.No.5713 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

W.P.No.5713 of 2023

E.Govindammal

.. Petitioner

Vs

1 The Authorised Officer
Canara Bank, Recovery Section
Ro Thiruvallur, Armenian Street
Chennai-600 001.

2 The Branch Manager
Canara Bank, Bazaar Road
Gummidipoondi Town and Taluk
Thiruvallur District.

3 K.Vasu (Odai)

4 Sasi Kumar

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to call for the records pertaining to notice dated 13.02.2023 in proceedings No.978/SALE NOTICE/E-AUCTION/SASIKUMAR issued by the 1st respondent under section 13(4) of SARFAESI Act and quash the same and consequently direct the 1st and 2nd respondents to drop further proceedings under the SARFAESI Act.



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For the Petitioner : Mr.V.Narayanan

ORDER

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

E.Govindammal, wife of Elumalai, has filed this writ petition calling into question the impugned sale notice/e-auction notice dated 13.2.2023 issued by the first respondent under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and seeking a consequential direction to respondents 1 and 2 to drop all further proceedings under the Act.

2. Mr.V.Narayanan, learned counsel for the petitioner, would submit that the petitioner is the owner of the property in Survey Nos.545/3, New S.No.545/3A and Survey No.545/2, New Survey No.545/2B, Gummidipoondi Taluk, Thiruvallur District, measuring an extent of 5848 sq.ft. The petitioner is the grandmother of the borrower, who availed credit facility to the tune of Rs.18 lakhs. The



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borrower had pursued medical course and had become a doctor. As her grandson defaulted in repayment of the loan, the present notice has been issued to sell the property of the petitioner, who stood as a guarantor. It is pleaded that the respondent/bank, without issuing any notice to the borrower, had invoked the provisions of the Act with respect to the aforesaid property belonging to the petitioner and, therefore, the sale notice dated 13.2.2023 has to be set aside. It is further pleaded that as far as Gummidipoondi Village is concerned, no valid mortgage can be created by deposit of title deeds.

3. It is well-settled that if any person is aggrieved by any measure taken by the secured creditor under Section 13(4) of the Act, the remedy available to such person is to file an application before the Debts Recovery Tribunal under Section 17 of the Act. When there is an effective alternative statutory remedy available to the petitioner, bypassing such remedy the petitioner cannot be permitted to knock the doors of this court to exercise the extraordinary jurisdiction under Article 226 of the Constitution of



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For the foregoing reason, the writ petition is dismissed. There will be no order as to costs. Consequently, W.M.P.No.5720 of 2023 is closed.

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

Index : No
Neutral Citation : No
sasi

To:

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

(sasi)

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