



W.P.Nos.9697 and 9701 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.9697 and 9701 of 2023

Banupriya

.. Petitioner in  
W.P.No.9697/2023

M.Krishna

.. Petitioner in  
W.P.No.9701/2023

Vs

1.The Branch Manager,  
Union Bank of India,  
Hosur Branch,  
No.560, Yasodha Mahal,  
Opp. of Bus Stand Bye-Pass Road,  
Hosur-635 109,  
Krishnagiri District.

2.The Authorized Officer,  
Union Bank of India,  
Hosur Branch,  
SF No.551/1, Bagalur Road,  
Hosur-635 109,  
Krishnagiri District.

.. Respondents in  
both WPs

Prayer: Petitions filed under Article 226 of the Constitution of India



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seeking issuance of a writ of certiorarified mandamus calling for the records pertaining to the order dated 07.01.2022 (which is to be shown as 07.01.2023) made in Ref.No.OR/HSR/SARFAESI/2/2022-23 of the second respondent and to quash the same and direct the respondent bank to consider the petitioner's objections dated 22.10.2022 filed under Section 13(3A) of the SARFAESI Act in a proper perspective manner.

For the Petitioners : Mr.T.Dhanasekaran

COMMON ORDER

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

The petitioners have filed these writ petitions seeking issuance of a writ of certiorarified mandamus to call for the records pertaining to the impugned order dated 07.01.2022 (which is to be shown as 07.01.2023) made in Ref.No.OR/HSR/SARFAESI/2/2022-23 of the second respondent and to quash the same and direct the respondent bank to consider the petitioners' objections dated 22.10.2022 filed under Section 13(3A) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in proper perspective.



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2. At the outset, it is to be noted that as against the demand notice dated 26.9.2022 under Section 13(2) of the Act, the petitioners have given detailed representation/objections on 22.10.2022, which was received by the respondents on 23.12.2022. It is the claim of the petitioners that as per Section 13(3A) of the Act, if on receipt of the notice under Section 13(2) of the Act, the borrower makes any representation or raises any objection, the secured creditor has to consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within fifteen days of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower. Alleging that the respondents have not considered the representation/objections as contemplated under the said provision the petitioners have filed these writ petitions.

3. In the case on hand, pursuant to the notice issued under Section 13(2) of the Act, the respondents have issued the



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possession notice under Section 13(4) of the Act. Therefore, it is for the petitioners to approach the Debts Recovery Tribunal questioning the correctness of the same, including the defects pointed out in these writ petitions. When the petitioners have got an effective alternative statutory remedy available, invocation of the extraordinary jurisdiction under Article 226 of the Constitution of India stands barred. Besides, no challenge to the order under Section 13(3A) of the Act is maintainable in view of the proviso to Section 13(3A) of the Act itself.

For the foregoing reasons, these writ petitions are dismissed. There will be no order as to costs. Consequently, W.M.P.Nos.9758 and 9762 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)  
30.03.2023

Index : No  
Neutral Citation : No  
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To:

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THE HON'BLE ACTING CHIEF JUSTICE  
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(sasi)

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