



WEB COPY

W.P.No.15484 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **17.05.2023**

CORAM:

**THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.15484 of 2023
and
W.M.P.Nos.15028 & 15029 of 2023**

P.S.Murugesan

Vs.

... Petitioner

1.The Banking Ombudsman
C/o.Reserve Bank of India,
Fort Glacis ; Chennai 600 001.

2.The Reserve Bank of India,
Fort Glacis ; Chennai 600 001.

3.Tamil Nadu Mercantile Bank Ltd.,
No.364, Dr.Nanjappa Road Branch,
Coimbatore 641 018.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari Mandamus to call for records pursuant to the order dated 20.03.2023 made in RBI/CMS/N202223023404946/2022-23 by the 1st respondent and quash/set aside the entire recovery proceedings initiated by the 3rd respondent Bank including the SARFAESI measures as null and void and consequently direct the 3rd respondent bank for status quo ante and restoration of the property to the petitioner.



WEB COPY

W.P.No.15484 of 2023

For Petitioner : Mr.S.S.Rajesh
for R and P Partners
ORDER

**[Order of the Court was made by
SENTHILKUMAR RAMAMOORTHY,J.]**

The petitioner assails an order dated 20.03.2023 of the first respondent by which the first respondent refused to entertain the petitioner's complaint on the ground that the complaint is *sub judice* and, therefore not maintainable as per Clause 16(1)(a) read with clause 10(2) (b)(ii) of the Reserve Bank – Integrated Ombudsman Scheme, 2021.

2.The petitioner had availed of credit facilities from the third respondent (the Bank), which is a private bank. In relation thereto, proceedings had been initiated before the jurisdictional Debts Recovery Tribunal by the petitioner. The said proceedings were dismissed as infructuous after noticing that the bank had filed a civil suit in O.S.No.534 of 2018. The said civil suit was subsequently withdrawn. It appears that the third respondent initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI Act, 2002) thereafter, and brought the mortgaged asset for sale. The complaint before the first respondent was lodged in the said facts and circumstances.



W.P.No.15484 of 2023

WEB COPY

3.Learned counsel for the petitioner contends that the proceedings before the DRT were dismissed as infructuous because the Bank filed a civil suit. Thereafter, the civil suit was withdrawn and the Bank once again resorted to the provisions of the SARFAESI Act, 2002. Learned counsel points out that he has been driven from pillar to post and has approached the DRT and the Banking Ombudsman to no avail. Therefore, he submits that his possession of the property should be protected and that he has paid in excess of Rs.4,00,000/- after availing credit facilities of Rs.4,00,000/-.

4.The first respondent rejected the petitioner's complaint by referring to and relying upon the relevant clauses of the Reserve Bank of India – Integrated Ombudsman Scheme, 2021, which specifies that such complaint should not be entertained when legal proceedings have been initiated in respect thereof. As such, there is no infirmity in the impugned order. In matters of this nature, the Hon'ble Supreme Court has repeatedly frowned upon interference by the High Court, including under Article 226 of the Constitution of India. In respect of every measure taken by a]secured creditor under Section 13(4) of the SARFAESI Act, the person aggrieved has recourse under Section 17 thereof before the jurisdictional DRT. Consequently, by leaving it open to the petitioner to institute appropriate



W.P.No.15484 of 2023

proceedings under the SARFAESI Act, 2002, this Writ Petition is dismissed without any order as to costs. W.M.P.Nos.15028 and 15029 of 2023 are closed.

(C.V.K.,J.) (S.K.R., J.)
17.05.2023

Intex : Yes/No
Internet : Yes/No
Neutral citation : Yes/No
ep/mrn



W.P.No.15484 of 2023

WEB COPY

To

- 1.The Banking Ombudsman
C/o.Reserve Bank of India,
Fort Glacis ; Chennai 600 001.
- 2.The Reserve Bank of India,
Fort Glacis ; Chennai 600 001.
- 3.Tamil Nadu Mercantile Bank Ltd.,
No.364, Dr.Nanjappa Road Branch,
Coimbatore 641 018.



WEB COPY



W.P.No.15484 of 2023

C.V.KARTHIKEYAN, J.
and
SENTHILKUMAR RAMAMOORTHY, J.

(ep/mrn)

W.P.No. 15484 of 2023
and
W.M.P.Nos.15028 & 15029 of 2023

17.05.2023