



W.P. No. 18308 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

CORAM

THE HON'BLE MR.JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No. 18308 of 2023

&

W.M.P. No. 17512 of 2023

1. M/s. Royal Educational Trust,
Having its Administrative Office,
at No.16/177 A, Palakkad Main Road,
Marappallam, Madukkarai,
Coimbatore 641 105 rep. by its
Managing Trustee, A. Gunasingh
2. A. Gunasingh,
Managing Trustee of
M/s. Royal Educational Trust,
S/o. Late A.Azariah Nadar,
No.16/177A, Palakkad Main Road,
Marappallam, Madukkarai,
Coimbatore 641 105

..Petitioners

Vs.



W.P. No. 18308 of 2023

The Authorized Officer,
M/s. Union Bank of India,
Erstwhile Corporation Bank,
Assets Recovery Branch,
Oppanakara Street,
Coimbatore 641 001.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ Ceterari to call for the records pertaining to the impugned notice in reference AAB/13(2)/21/2022-23 dated 27.01.2023 issued by the respondent which notice is the 2nd notice issued under Section 13(2) of the SARFAESI Act by the respondent without recalling their earlier notice issued under Section 13(2) of the Act, dated 30.10.2012 and quash the impugned notice dated 27.01.2023 and consequent further proceedings.

For Petitioners :: Mr.V. Jayachandran

ORDER

(By S. Vaidyanathan,J.)

The writ petition has been filed challenging the notice dated 30.10.2012 issued by the respondent under Section 13(2) of Securitisation



W.P. No. 18308 of 2023

and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI' Act in short).

2. Admittedly, as against the notice issued by the 2nd respondent under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI' Act in short), the petitioners have got an effective alternate remedy by way of statutory appeal under Section 17 of SARFAESI Act before the Debts Recovery Tribunal. There are a catena of judgments holding that High Courts cannot be alternative remedial Courts in such matters. Hence, the relief sought by the petitioners cannot be granted.

3. Though the learned counsel for the petitioners produced an undertaking affidavit before this Court stating that the petitioners are willing to pay a sum of Rs.1.75 crores in five instalments, it is for the respondent Bank to consider the same.



W.P. No. 18308 of 2023

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4. The writ petition stands dismissed with liberty to the petitioners to approach the appropriate forum. No costs. Connected W.M.P. is closed.

nv

(S.V.N.J.) (K.R.S.J.)
23.06.2023



W.P. No. 18308 of 2023

W.P. No.18308 of 2023

S. VAIDYANATHAN, J.
and
K. RAJASEKAR, J.

This matter is listed under the caption “for being mentioned”.

2 Today, when the matter was taken up for hearing, the learned counsel for the petitioner submitted that the amount mentioned in paragraph 3 of the order dated 23.06.2023 is not “Rs.1.75 crores”, but, “Rs.5.75 crores.”

3 This Court also perused the undertaking affidavit filed by the second petitioner, wherein also, only the sum of Rs.5.75 crores finds place.

4 In view of the above, it is ordered that the amount of Rs.1.75 crores wrongly stated in paragraph 3 of the order dated 23.06.2023 shall read as “Rs.5.75 crores”.

The Registry is directed to carry out the aforesaid correction and issue fresh order copy.

(S.V.N., J.) (K.R.S., J.)
31.07.2023

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W.P. No. 18308 of 2023

S. VAIDYANATHAN,J.
AND

K. RAJASEKAR,J.

nv

To
The Authorized Officer,
M/s. Union Bank of India,
Erstwhile Corporation Bank,
Assets Recovery Branch,
Oppanakara Street,
Coimbatore 641 001.

W.P. No. 18308 of 2023

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