



W.P.No.16372 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.05.2023

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

AND

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.No.16372 of 2023

G.Ravindra Kumar

.. Petitioner

Vs.

1. The Authorised Officer

M/s. Canara Bank

The Asset Recovery Management Branch

Chennai 600 002.

2. P.Saravana Praveen Kumar

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India
praying for a writ of Mandamus directing the DRT III, Chennai to take
the SA Dairy No.237/2023, SR 1597/2023 and 5212/2023 on file.

For the Petitioner

: Ms.Shaikh Mehrunisa



W.P.No.16372 of 2023

ORDER
(Made by V.Lakshminarayanan,J)

This writ petition has been filed seeking a direction to the Debts Recovery Tribunal III, Chennai, to take up SA Diary No.237/2023, SR 1597/2023 and SR 5812/2023 and pass appropriate orders.

2. The case of the petitioner is that his property was brought for auction on 16.12.2022 and challenging the same, he has filed an appeal before the Debts Recovery Tribunal III, on 05.02.2023. The Debts Recovery Tribunal has returned the papers stating that an appeal is not maintainable as against the issuance of a sale certificate by the respondent bank.

3. On a perusal of the papers, it is clear that the challenge is not to the issuance of the sale certificate, but to the sale itself. An order of sale comes within the scope of an action under Section 34 of the SARFAESI Act, 2002 and susceptible to be challenged by way of an appeal under Section 17(1) of the Act. Therefore, the return made by the Debts Recovery Tribunal III, Chennai is on a presumption that the challenge is only to the issuance of the sale certificate and not to the



W.P.No.16372 of 2023

WEB COPY sale itself.

4. We have gone through the appeal papers and we are satisfied that the challenge is to the sale and not to the issuance of sale certificate. Hence, the appeal is maintainable. Accordingly, the Debts Recovery Tribunal III, Chennai is directed to take up the appeal on file and dispose of the same in accordance with law.

(B.P., J.) (V.L.N., J.)
25.05.2023

Index : Yes/No
Neutral Citation : Yes/No

kpl/ms

To

The Authorised Officer
M/s. Canara Bank
The Asset Recovery Management Branch
Chennai 600 002.



WEB COPY



W.P.No.16372 of 2023

B.PUGALENDHI, J.,
and
V.LAKSHMINARAYANAN, J.

(kpl/ms)

W.P.No.16372 of 2023

25.05.2023