



WP No.17094 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

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K.Parthasarathy

.. Petitioner

versus

1. The Authorized Officer,
The Reserve Bank of India,
Fort Glacis, No.16, Rajaji Road,
Fort St. George, Chennai 600 001.

2. The Authorized Officer,
DCB Bank, Retail Assets-Collection,
1st Floor, No.6, Rajaji Salai,
Nungambakkam, Chennai 600 034.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to the demand notice dated 05.02.2023 bearing Ref.No.01/Feb/2023 and the subsequent possession notice dated 19.05.2023 issued under the SARFAESI Act in respect of the petitioner's property at Plot No.154A, Door No.12/A, 7th Main Road, Thanikachalam Nagar, Ponniyamman Medu, Chennai 600 110 and quash the same as null and void, and direct the respondents to set aside the Non-Performing Assets (NPA) status of his loan accounts bearing Nos.DRBLCHE00513401 and DRBLCHE00430919 with the 2nd respondent, in compliance with the master circulars of the 1st respondent on the basis of the petitioner's representation dated



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17.03.2023 sent by RPAD to the respondents and received by them on 18.03.2023.

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For the Petitioner : Mr.S.Anil Sandeep

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ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

We have heard Mr.S.Anil Sandeep, learned counsel for the petitioner.

2. The petitioner assails the action of the second respondent bank in declaring the petitioner's account as a non-performing asset with further consequential reliefs.

3. The learned advocate for the petitioner strenuously contends that the second respondent bank did not follow the Master Circular issued by the Reserve Bank of India. The Master Circular issued by the Reserve Bank of India has statutory force. The bank is bound to follow and implement the same. After the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) was issued



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to the petitioner, the petitioner raised an objection under Section 13(3A). It was incumbent upon the bank to communicate the reasons for rejection of the objection within fifteen days. The bank did not adhere to the same. The further process could not have been undertaken by the bank. The bank could not have resorted to Section 13(4) of the SARFAESI Act. According to the learned counsel, as the action of the bank is against the statutory Master Circular, this Court may invoke the writ jurisdiction under Article 226 of the Constitution of India. The learned counsel relies upon a judgment of the Apex Court in the case of **ITC Limited vs. Blue Coast Hotels Ltd.** reported in **(2018) 15 SCC 99**.

4. We have considered the submissions canvassed by the learned counsel for the petitioner.

5. It appears that the bank has already resorted to an action under Section 13(4) of the SARFAESI Act. If the bank resorts to an action under Section 13(4) of the SARFAESI Act, the petitioner has a remedy under Section 17 of the said Act to file an application before the DRT.



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6. While filing the application under Section 17, the petitioner would have all the defences available as has been raised in the present writ petition.

7. We are not inclined to consider the writ petition on the following counts:

i) The petitioner has an alternate efficacious remedy available under Section 17 of the Act wherein the petitioner can raise all the defences available to him; and

ii) The respondent bank is a private bank.

In light of the above, we are not inclined to entertain the writ petition. The writ petition is disposed of with liberty to the petitioner to avail the alternative remedy. In that event, all contentions are kept open. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

09.06.2023

Index : yes/no
Neutral Citation : Yes/No
sra



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To:

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The Chief Manager,
Punjab National Bank
Circle SASTRA Centra, Chennai,
2nd Floor, No.769, Spencer Plaza,
Anna Salai, Chennai 600 002.



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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESSAVALU, J.

(sra)

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