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WMP No.21135 of 2023 in
WP No.13266 of 2023

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THE HON'BLE CHIEF JUSTICE
and
P.D.AUDIKESAVALU, J.

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

We have heard Mr.N.Manoharan, learned counsel for the applicant/respondent No.5 in the writ petition, Mr.S.Shanmugaraja, learned counsel for the first respondent-bank and Mr.P.Muthukumar, learned State Government Pleader for respondent Nos.2 to 4.

2. The present application is filed for modification and recall of the order dated 01.06.2023 passed by this Court in the writ petition.

3. The learned counsel for the applicant submits that in fact the entire amount has been recovered by the bank by auction of the properties owned by the borrower. The present applicant has approached this Court challenging the auction sale. This Court directed the present applicant to approach the Debts Recovery Tribunal (DRT) and raise all the grounds therein. The present applicant has moved the



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DRT. The bank has also appeared and filed counter. In spite of that, the bank filed the present writ petition seeking implementation of the order passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The same is unjust.

4. According to the learned counsel for the bank, still some amount is due and recoverable. The instant auction sale is the first auction sale.

5. We would certainly have considered the submission had we passed some order in the writ petition. On 01.06.2023, we only recorded the submission of the learned State Government Pleader that the order under Section 14 of the SARFAESI Act would be executed within a fortnight. We had not issued any directions in the writ petition nor addressed upon the rights of the parties. The parties certainly can agitate their rights before the appropriate forum where the proceedings may be pending.



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6. The present applicant is entitled to seek stay or otherwise in the pending application before the DRT. So as to enable the present applicant to file necessary application and seek orders from the DRT, the authorities and the bank, for a period of ten days, may not execute the order. The present protection is only for a period of ten days.

The application is, accordingly, disposed of.

(S.V.G., CJ.)

(P.D.A., J.)

25.08.2023

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