



W.P.No.23329 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM :

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

AND

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

W.P.No.23329 of 2023

P.Ravichanthiran

.. Petitioner

Vs

The Authorized Officer,
Indian Overseas Bank,
Pongalur Branch,
7/710-10, Sakthi Nagar,
Trichy Main Road,
Pongalur-641 667.

.. Respondent

Prayer: Petitions filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records leading to issuance of the impugned notice issued by the respondent under S.13(2) of the SARFAESI Act, 2002 dated 6.5.2023 in so far as the petitioner is concerned quash the same and forbear the respondents or any one claiming through them from in any way taking any measure as against the petitioner under SARFAESI Act, 2002.

For the Petitioner : Mr.D.Prabhu Mukunth Arunkumar

For the Respondent : Mr.M.L.Ganesh



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ORDER

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

We have heard Mr.D.Prabhu Mukunth Arunkumar, learned counsel for the petitioner and Mr.M.L.Ganesh, learned counsel for the respondent.

2. The grievance of the petitioner is that notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the "Act of 2002") is issued to the petitioner, though the petitioner has not created any security interest in favour of the bank. The bank had no jurisdiction to issue such notice.

3. Learned counsel for the bank submits that the notice is issued to the petitioner as a guarantor to the loan. Learned counsel for the bank admits that the petitioner has not created any security interest. However, the borrower has created the security interest and since the definition of "borrower" includes the



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guarantor, the notice is issued to the petitioner demanding the amount outstanding. No further action under Section 13(4) of the Act of 2002 would be initiated against the petitioner.

4. The said statement of learned counsel for the bank would suffice the purpose. The issue raised by the petitioner would only be academic. Even otherwise, the bank would have issued a demand notice for recovery of the amount outstanding to the borrower and the guarantor. The liability of the guarantor is co-extensive with the borrower. The bank can also sue the guarantor independently for recovery of the amount outstanding.

5. It is submitted that the bank has already filed proceedings against the petitioner for recovery of the amount. The petitioner is entitled to raise all possible defences in the proceedings initiated against him.

6. In light of the above, as the statement is made that against the petitioner no further proceedings under the Act of 2002 would



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be taken up, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.No.22867 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

22.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

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

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