



W.P.No.27551 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM :

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

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

W.P.No.27551 of 2023

R.Bhuvaneshwari

.. Petitioner

Vs

1.M/s.Canara Bank,  
rep. by its Authorized Officer,  
No.5/4, 1<sup>st</sup> Floor, RVR Building,  
Head Quarters Road,  
Coimbatore-641 018.

2.The Chief Judicial Magistrate,  
Coimbatore.

3.V.Arun

4.L.Thirumurugesan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent to desist from initiating any coercive step towards implementation of the provisions of SARFAESI Act, 2002 with reference to the petitioner's property till the disposal of S.A.No.13/2023 pending on the file of the Debts Recovery Tribunal at Coimbatore.



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For the Petitioner : Mr.Vigneshwar Elango

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ORDER

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

Heard Mr.Vigneshwar Elango, learned counsel for the petitioner.

2. Learned counsel for the petitioner submits that the petitioner was the co-guarantor to the loan account. The property of the petitioner has been sold without adhering to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the "*Act of 2002*"). In the absence of notices issued under Section 13(2) and 13(4) of the Act of 2002, further steps could not have been taken by the secured creditor. Be that as it may, the sale certificate/deed has been executed by the secured creditor in favour of the auction-purchaser. Thereafter, the secured creditor has moved an application under Section 14 of the Act of 2002. The same is not maintainable after the sale certificate is issued in favour of the



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auction-purchaser.  
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3. It is not disputed that the petitioner has already filed Securitisation Application challenging the order under Section 14 of the Act and the same is pending. No interim orders are passed as on date in the said Securitisation Application. The petitioner is entitled to raise all the grounds available to her before the Debts Recovery Tribunal where the Securitisation Application is already pending.

4. It is trite that a party cannot avail two remedies against the same order.

5. Learned counsel for the petitioner submits that the Debts Recovery Tribunal has kept the matter on 15.11.2023 and the respondents are taking steps to take over possession of the property.

6. The petitioner may request the Debts Recovery Tribunal for



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expeditious hearing of the stay petition considering the exigency in the matter.

7. The Debts Recovery Tribunal shall consider the request of the petitioner for emergent decision on the stay application, of course after hearing all the parties concerned.

8. With these observations, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.No.26996 of 2023 is closed.

(S.V.G., C.J.)

(P.D.A., J.)

25.09.2023

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

1.The Authorized Officer,  
M/s.Canara Bank,  
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THE HON'BLE CHIEF JUSTICE  
AND  
P.D.AUDIKEVALU,J.

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