



WEB COPY



W.P.No.35183 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.35183 of 2022

Shanthamani

.. Petitioner

Vs.

1. Debts Recovery Tribunal
Coimbatore.

2. The Authorised Officer
Union Bank of India
No.300/1, Mangalam Road
Tirupur 641 604.

3. M/s. Mark Associates
Rep. by its Partners
No.15-16, Siva Nagar
Uppilipalayam, Singanallur
Coimbatore 641 015.

4. T.A.Vijay

5. Rhati Vijay

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India



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seeking issuance of a writ of Mandamus directing the first respondent to dispose of the interim application numbered as I.A.No.4103 of 2022 in S.A.No.887 of 2021 on the file of the Debts Recovery Tribunal, Coimbatore, within a time frame fixed by this Court.

For the Petitioner : Mr.K.R.Arun Shabari

ORDER

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

The petitioner seeks a direction to the first respondent to dispose of I.A.No.4103 of 2022 in S.A.No.887 of 2021 on the file of the first respondent.

2. According to the petitioner, she received a demand notice dated 04.05.2021, issued under Section 13(2) of the SARFAESI Act seeking repayment of loan amount of Rs.4,54,30,780/- and thereafter, received possession notice under Section 13(4) of the Act. Challenging the same, she filed S.A.No.887 of 2021 before the Debts Recovery Tribunal, Coimbatore and the same is pending.



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3. In the meanwhile, the second respondent had issued three sale notices dated 29.07.2022, 26.08.2022 and 26.10.2022. Assailing the same, the petitioner filed S.A.Nos.794, 899 and 1060 of 2022 respectively before the Debts Recovery Tribunal, Coimbatore. Despite the above, the second respondent continued to issue sale notice. Hence, the petitioner filed an application in I.A.No.4103 of 2022 in S.A.No.887 of 2021, under Section 17(7) of the Act, read with Rule 19(25)(g) of RDDB & FI Act. As the said application is yet to be disposed of, the petitioner has come up with this writ petition.

4. As per Section 17(5) of the SARFAESI Act, the Debts Recovery Tribunal, Coimbatore is required to dispose of the application within 60 days and if not, within four months as per Section 17(6) of the Act. But, in the present case, the Debts Recovery Tribunal, Coimbatore, kept silent for long time enabling the second respondent to dispose of the secured asset.



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5. Learned counsel for the petitioner would submit that since the S.As., and I.A. filed by the petitioner are pending before the Debts Recovery Tribunal, Coimbatore, for long time, the petitioner has come up before this Court. He submitted that the second respondent has issued possession notice against the agricultural land. In order to prove that the secured asset in S.F.No.62/1, Kannampalayam Village, Sulur Taluk, Coimbatore, is an agricultural land, he has also referred to the Adangal extract.

6. Prima facie, we find some merits in the contentions of learned counsel for the petitioner. Admittedly, it has to be seen whether the secured asset is an agricultural land, against which possession notice under Section 13(4) of the Act has been issued. Since S.A.No.887 of 2021 pending since 05.11.2021 and S.A.Nos.794, 899 and 1060 of 2022 and I.A.No.4103 of 2022 are also pending, before they become infructuous, they have to be heard and hence, we direct the Debts Recovery Tribunal, Coimbatore, to take up all the matters, hear the parties and pass appropriate orders, within one week from the date of receipt of a



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7. The writ petition is disposed of accordingly.

(T.R., ACJ.) (D.B.C., J.)
03.01.2023

Index : Yes/No

Note to Office:

Issue order copy tomorrow (04.01.2023)

kpl

To:

1. Debts Recovery Tribunal
Coimbatore.
2. The Authorised Officer
Union Bank of India
No.300/1, Mangalam Road
Tirupur 641 604.



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T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

(kpl)

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