



WP No.1527 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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1.V.S.Scibi

2.Minor.V.S.Varshikaa

D/o.S.P.Suresh Kumar

Presently by next friend

and guardian V.S. Scibi

... Petitioners

versus

1 The Branch Manager

Canara Bank, Fort Branch

CSI Building Compound

Fort Main Road, Salem- 636 001.

2 The Registrar

The Debts Recovery Tribunal

Coimbatore- 641 018

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing to issue the summons of the 2nd respondent herein dated 27.09.2022 in O.A. No. 783 / 2022 pending before the 2nd respondent herein and to remove the petitioners.



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For the Petitioner : Mr.C.Selvaraj

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ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioners have filed this writ petition to forbear the second respondent from issuing summons to them.

2. Learned counsel for the petitioners submitted that the petitioners are children of the borrower Mr.Suresh Kumar, proprietor of M/s.Sree Ruby Mart, who availed financial assistance from the first respondent bank. Mrs.Vanitha Sureskumar, wife of the borrower, stood as guarantor, guaranteeing discharge of all obligations and liabilities of the borrower, and if there is any default, liberty was given to the bank to proceed against the borrower and also the guarantor. Since the borrower committed default, the first respondent bank issued notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Thereafter, the bank filed O.A.No.783 of 2022 on the file of the Debts Recovery Tribunal, Coimbatore. In the said original application, summons was issued to all those who are lawfully liable for repayment of the loan amount.



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3. When the original application filed by the first respondent bank is pending before the Debts Recovery Tribunal, Coimbatore, we are unable to understand how the children of the borrower could file this writ petition with an innovative prayer not to issue summons to them. The petitioners have to workout their remedy before the Debts Recovery Tribunal, Coimbatore, by filing an appropriate application. Without exhausting such remedy, the petitioners cannot knock the doors of this Court by filing writ petition.

4. In the result, the writ petition fails and the same is dismissed. There will be no order as to costs. Consequently, WMP Nos.1614 and 1610 of 2023 are closed.

(T.R., ACJ.) (D.B.C., J.)
23.01.2023

Index : Yes/No
Neutral Citation : Yes/No
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