



WEB COPY



WP No.34488 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.34488 of 2023

1.Balasubramanianm Srivani
2.pachiappan Marimuthu Balasubramaniam : Petitioners

versus

1.The Authorised Officer,
M/s.SMFG India Home Finance Co.Ltd.,
(Former Fullerton India Home Finance Co.Ltd.,)
having its registered office at MeghTowers,
3rd Floor, Old No.307, New No.165,
Poonamallee High Road, Maduravoyal
Chennai 600095

2.The Authorised Officer,
M/s.SMFG India Home Finance Co.Ltd.,
(Former Fullerton India Home Finance Co.Ltd.,)
having its Office at 1st Floor, No.178,
Krishnaswamy Mudaliyar Road,
RS Puram, Coimbatore 641002 : Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records of the impugned order dated 16.11.2023 passed by the Chief Judicial Magistrate Salem in CrI.M.P.No 1162/2023 and quash the same as bad and non-est in law and consequently direct the respondent Bank to not to relinquish their promise to stall the SARFAESI Proceedings as per their Letter dated 20.12.2022.

For the Petitioners : Mr.E.C.Ramesh

For the Respondents : Mr.V.Balasubramani

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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.E.C.Ramesh, learned counsel for the petitioners and Mr.V.Balasubramani, learned counsel for the respondents.

2. The petitioners are challenging the order passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

3. The learned counsel for the respondents submits that the petitioners have challenged the same order before the Debts Recovery Tribunal. The Debts Recovery Tribunal had directed the petitioners to deposit a certain amount. Now, the petitioners are challenging the very same order that is assailed before the Debts Recovery Tribunal.

4. When the petitioners have already availed the remedy before the Debts Recovery Tribunal and the matter is sub-judice before the Debts Recovery Tribunal, and so also direction is issued by the Tribunal against the petitioners to deposit a certain amount, it is not appropriate on the part of the petitioners to file the present writ petition seeking the same relief as before the Debts Recovery Tribunal.



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5. The learned counsel for the petitioners, at this stage, submits that he may be permitted to withdraw the writ petition. The writ petition is dismissed as withdrawn, with costs. Consequently, WMP No.34395 of 2023 is closed.

6. WMP No.34394 of 2023 filed to permit the petitioners to file a single writ petition is allowed and disposed of.

(S.V.G., CJ.)

(D.B.C., J.)

14.12.2023

Index : Yes/No
Neutral Citation : Yes/No
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