



W.P.No.36144 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.36144 of 2023

Govindaraju

.. Petitioner

Vs.

1. Shriram Finance Limited
(Formerly Shriram Transport Finance Company Ltd.)
Rep. by its Authorized Officer
No.23/24, Schakaralaya Motors
1st Floor, Guber Nagar Corner
Cuddalore Main Road, Nainarmandapam
Puducherry – 605 004.

2. Selvakumar

3. Raveindran

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records of the respondent 1 leading upto the issuance of impugned demand notice ref.No.PONI20711210001 dated 16.11.2021 followed by the impugned possession notice Ref.No.PONI20711210001 dated 24.01.2023 under the provisions of the SARFAESI Act, 2002 and quash the same as illegal and consequently direct the respondent 1 to drop all further proceedings pursuant to the above said impugned demand and possession notice including proceedings initiated under Section 14 of the SARFAESI Act, 2002.



W.P.No.36144 of 2023

WEB COPY

For the Petitioner : Mr.V.Kamala Kumar

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.V.Kamala Kumar, learned counsel for the petitioner.

2. Learned counsel for the petitioner submits that the first respondent has not registered the charge as required under Section 26 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [hereinafter, "the SARFAESI Act, 2002"]. Section 26D of the SARFAESI Act, 2002 states that "*no secured creditor shall be entitled to exercise the rights of enforcement of securities under Chapter III unless the security interest created in its favour by the borrower has been registered with the Central Registry*".

3. Learned counsel for the petitioner further submits that the charge registered is in the name of Sriram Finance Company and notice under Section 13(2) of the SARFAESI, 2002 has been issued by Sriram Transport Finance Company. Both are two different entities.



W.P.No.36144 of 2023

WEB COPY

4. It is not disputed by the learned counsel for the petitioner that the petitioner has already invoked the jurisdiction of the Debts Recovery Tribunal by challenging the order passed under Section 14 of the SARFAESI Act, 2002. The petitioner can raise all the defenses available in the pending proceedings before the Debts Recovery Tribunal.

5. With these observations, the writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.No.36100 of 2023 is closed.

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

(D.B.C., J.)

22.12.2023

Index : Yes/No
Neutral Citation : Yes/No

drm



WEB COPY



W.P.No.36144 of 2023

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.
(drm)

W.P.No.36144 of 2023

22.12.2023