



W.P(MD)No.6326 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

**W.P(MD)No.6326 of 2009
and
M.P(MD)Nos.1 and 2 of 2009**

Sree Akilandeswari Mills (P) Ltd.,
Rep. by its Authorised Signatory,
Gandhi Nagar,
Leigh Bazaar Post,
Salem – 636 009.

... Petitioner

Vs.

- 1.The Debts Recovery Appellate Tribunal,
IV Floor,
No.55, Ethiraj Salai,
Chennai – 600 008.
- 2.The Debts Recovery Tribunal,
IV Floor,
Kalyani Towers,
Melur Road,
Madurai.
- 3.The Authorised Officer,
The Asset Reconstruction Company (I) Ltd.,
Express Tower 17th Floor,
Nariman Point,
Mumbai – 400 021.

Now at



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Shreepati Arcade,
A.K.Marg,
Nana Chowk,
Mumbai – 400 036.

4.United Bank of India,
represented by its,
Authorised Officer,
Salem Branch, Salem.

5.M/s.Syhims Granites,
rep. by its Manager,
K.Shahul Hameed.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the second respondent pertaining to the order dated 08.06.2009 made in S.A.No.4 of 2009 and quash the same.

For Petitioner	: M/s.T.Sureka
For R1 to R-4	: No Appearance
For R5	: Mr.P.Thiagarajan

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The present writ petition is filed against the order passed by the Debts Recovery Tribunal rejecting the securitization application filed by the present petitioner.



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2. Securitization Application in S.A.No.4 of 2009 was filed by the petitioner with a prayer to set aside the sale, dated 29.07.2008, between the first respondent and third respondent therein and consequently, the sale certificate issued in his favour. The possession is with the purchaser.

3. We have heard the learned counsel for the petitioner and the learned counsel for the fifth respondent/purchaser.

4. One of the contentions of the learned counsel for the petitioner before the Debts Recovery Tribunal is that though the sale was conducted on 29.07.2008, the initial deposit was made only on 05.08.2008. The same is violation of Rule 9(3) of the Security Interest(Enforcement) Rules, 2002. The said aspect is dealt with by the Presiding Officer. During the intervening period, the EPFO and ESI has intervened and the parties were supposed to seek remedy before the Court of law by filing a writ petition in W.P(MD)No.22040 of 2008 and there were exchange of letters. Time was granted to the third respondent to get the clarification with regard to the existing charges. The first respondent invoking Clause 23 of the document, dated 03.03.2008, granted time to third respondent to comply with the terms of the sale. The present applicant has also entered in a sale



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agreement with one R.Baskar and B. Manjula on on 23.05.2008 to clear the statutory dues. However, it is observed that the purported sale agreement by the applicant with R.Baskar and B.Manjula is contrary to the provisions of the SARFAESI Act, 2002, more particularly, Section 13(13) of the Act. The agreement could not have entered into as possession of the property has already been taken by the first respondent bank.

5. In light of that, no error is committed by the Debts Recovery Tribunal while dismissing the application.

6. The writ petition as such is dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

[S.V.G., C.J.]

[K.K.R.K, J.]

28.11.2023

Index : Yes / No
Neutral Citation : Yes / No

PM



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To:

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THE HONOURABLE CHIEF JUSTICE
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