



W.P.(MD)No.3901 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.3901 of 2023
and W.M.P.(MD)No.3738 of 2023

Mr.C.Ashok Kumar

... Petitioner

Vs.

1.The Senior Manager,
Tamil Nadu Mercantile Bank Ltd.,
Padanthalumoodu Branch,
17/92, Thiruvananthapuram Main Road,
Padanthalumoodu,
Kanyakumari District – 629 163.

2.The Authorized Officer,
Tamil Nadu Mercantile Bank Ltd.,
D.No.17/92, Trivandrum Main Road,
Padanthalumoodu - 629 163,
Kanyakumari District.

3.G.Suresh Thanga Pandian

... Respondents

Page 1 of 6



W.P.(MD)No.3901 of 2023

WEB COPY PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent pertaining to the impugned demand notice dated 08.02.2023 and to quash the same as illegal.

For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.N.Dilip Kumar,
Standing Counsel for R1 & R2

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Challenging the impugned demand notice dated 08.02.2023, issued by the 2nd respondent, the petitioner has filed this Writ Petition.

2. Heard Mr.S.C.Herold Singh, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel, who takes notice for respondents 1 and 2. Considering the nature of the order proposed to be passed in this Writ Petition, notice to the 3rd respondent is dispensed with.



W.P.(MD)No.3901 of 2023

WEB COPY 3. By consent, this Writ Petition is taken up for final disposal.

4. The learned counsel appearing for the petitioner submitted that the respondents Bank cannot invoke the SARFAESI Act on the ground that, the petitioner has regularly paid the monthly installments to the respondents bank. However, the 2nd respondent has issued the impugned demand notice without considering the said fact. Hence, the petitioner has filed this Writ petition.

5. The learned Standing Counsel appearing for the respondents 1 and 2 has stoutly objected the statement made by the petitioner. He further submitted that if any objection is made by the petitioner in compliance to Section 13-3A of the SARFAESI Act, the respondents Bank will consider such objection and pass necessary orders.

6. We are in agreement with the submission made by the learned Standing Counsel appearing for the respondents – Bank and we are of the view that at this stage, this Writ Petition, challenging the notice issued under Section 13(2) of the



W.P.(MD)No.3901 of 2023

WEB CAM SARFAESI Act, is not maintainable and therefore, this Writ Petition is liable to be dismissed.

7. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to file an objection under Section 13 (3A) of the SARFAESI Act, to the impugned notice dated 08.02.2023, within a period of one week from today and if any such objection is filed within the aforesaid period, it is for the respondents Bank to consider and pass orders on the same. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [L.V.G., J.]
27.02.2023

NCC : Yes / No
Index : Yes / No
vsm



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