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W.P.(MD) No.5058 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.5058 of 2023
and
W.M.P.(MD) Nos.4742 & 5383 of 2023**

1.A.S.Guru Ambath

2.Muthu Lakshmi

... Petitioners

-VS-

1.The Authorised Officer
State Bank of India
(Earlier State Bank of Travancore)
Stressed Assets Management Branch
Vinayaganagar Branch 1st Floor
No.8, Dr.Ambedkar Road
Madurai-625 020

2.The Branch Manager
State Bank of India
(Earlier State Bank of Travancore)
Theni Branch
289, SR Tower, Periyakulam Road
Theni



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3.G.Thomas George

4.C.Bijumon Jacob

5.J.Tom Joseph

6.Tijo Joseph

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the impugned auction sale notice dated 16.02.2023 issued by the first respondent fixing the date of sale on 09.03.2023 for the subject properties and quash the same.

For Petitioners : Mr.S.Suresh

For Respondents : Mr.P.Pethu Rajesh for R1 & R2
Mr.R.Karunanidhi for R4
No appearance for R3, R5 & R6

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

Challenge in this writ petition is to the auction sale notice, dated 16.02.2023, issued by the respondent – Bank.

2. The petitioners are borrowers.



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3. It is admitted before this Court that the impugned sale notice is the second sale notice and against the possession notice issued by the respondent – Bank earlier, the petitioners have already approached the Debts Recovery Tribunal, by filing an application under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “SARFAESI Act”)

4. One of the contentions raised by the learned counsel for the petitioners is regarding jurisdiction of the authorities concerned to initiate proceedings under the SARFAESI Act, as the secured asset is an agricultural land.

5. The petitioners can very well raise the same issue before the Debts Recovery Tribunal.

6. Therefore, giving liberty to the petitioners to approach the Debts Recovery Tribunal for appropriate relief and to raise the issue relating to jurisdiction or competency of the authorities concerned to invoke the power



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under the SARFAESI Act to bring the secured asset for sale before the Debts Recovery Tribunal, this writ petition is dismissed. Since jurisdictional issue is raised by the petitioners, it is for the Debts Recovery Tribunal to decide whether the secured asset can be proceeded against by invoking the provisions of the SARFAESI Act. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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