



W.P.(MD) No.8685 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.8685 of 2023
and
W.M.P(MD) No.7955 of 2023**

Sakthikumar

... Petitioner

-VS-

1. The Five State Business Finance Ltd,
No.2, 2nd Floor, Bharathidasan Salai,
Cantonment, Trichy,
Rep. by its Branch Manager.
2. The Authorized Officer,
The Five State Business Finance Limited,
No.2, 2nd Floor, Bharathidasan Salai,
Cantonment, Trichy.
3. Ameer Basha

... Respondents



W.P.(MD) No.8685 of 2023

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the 1st and 2nd respondents from initiating proceedings on the 2/3 share of the house property in Peruvalanallur East Village, Lalgudi Taluk Trichy District, Natham New S.F.No.29/5A3, terraced house, measuring 1025 sq.ft with house site measuring 2050 sq.ft, D.No.2/18, EB Connection no. 1152 pending disposal of the O.S.NO.9/2020 on the file of the III Additional District Judge, Tiruchirappalli, filed by the petitioner.

For Petitioner : Mr.S.Muthukrishnan

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The petitioner's challenge is to the action initiated by the first respondent under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity “the SARFAESI Act”).

2. We entertain very serious doubts about the *locus standi* of the petitioner to approach this Court. Admittedly, the father of the petitioner has sold the



W.P.(MD) No.8685 of 2023

property to the third respondent under a sale deed dated 12.08.1990. That sale has been questioned by the petitioner and his sister in a civil suit instituted by them in O.S.No.9 of 2020 and the same is pending before the District Court, Tiruchirappalli.

3. It appears that the third respondent had borrowed some money from the first respondent. On the strength of the said borrowing, the first respondent had initiated action under the SARFAESI Act. The validity of the sale deed executed by the father of the petitioner is the subject matter of the suit before the Civil Court. Unless the petitioner succeeds in the Civil Court, the petitioner cannot challenge the action taken by the first respondent under the SARFAESI Act.

4. Of course, it will be open to the petitioner to seek appropriate orders before the Civil Court, in which the suit is pending, restraining the first respondent from proceeding under the SARFAESI Act and it will be for that Court to decide whether such protective order should be granted to the petitioner.



W.P.(MD) No.8685 of 2023

WEB COPY 5. In view of the above, leaving it open to the petitioner to approach the Civil Court, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] [L.V.G., J.]

17.04.2023

NCC : No
Index : No
Internet : Yes

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W.P.(MD) No.8685 of 2023

R.SUBRAMANIAN, J.
AND
L.VICTORIA GOWRI, J.

PKN

W.P.(MD) No.8685 of 2023

17.04.2023