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C.R.P(MD)No.1213 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.10.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.R.P(MD)No.1213 of 2023
and
C.M.P(MD)No.5859 of 2023**

1.Mrs.P.Chandirakala
2.Mr.N.Selvaraj

:Petitioners/Applicants

.VS.

1.The Authorized Officer,
Karnataka Bank Ltd.,
Asset Recovery Management Branch,
Chennai-600 001.

2.The Branch Manager,
Karnataka Bank Ltd.,
Nagercoil Branch,
Kanyakumari District.

3.Mr.Suresh

: Respondents/Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the return endorsement order made by the Registrar, Debt Recovery Tribunal, Madurai in SA.SR.No.2565 of 2023 dated 02.05.2023 and consequently direct the Registrar, Debts Recovery Tribunal, Madurai to number the same.



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For Petitioner	:Mr.M.Arun Murugan
For R1 & R2	:Mr.N.S.Karthikeyan
For R3	:No appearance

ORDER

[Judgment of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

The petitioners have filed the SARFAESI Application before the Debt Recovery Tribunal, Madurai and the same has been returned. Challenging the correctness of the return made in SA.SR.No.2565 of 2023, dated 02.05.2023, the petitioners have filed the present Civil Revision Petition.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents 1 & 2.

3. The learned counsel appearing for the petitioners would submit that the Registrar, Debt Recovery Tribunal, Madurai had returned the SARFAESI Application filed by the petitioners challenging the sale notice dated 24.03.2023 and the subsequent auction sale proceedings dated 18.04.2023 and the consequential sale confirmation letter dated 19.04.2023 issued by the first



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respondent on the ground that Demand notice is not produced, without considering the specific pleading that neither the demand notice nor the possession notice was served on the petitioners. He would further submit that producing of demand notice by the applicant cannot be made as a prerequisite for numbering the SARFAESI Application filed under Section 17 of the Act.

4. The learned counsel appearing for the respondent Bank would contend that the Registrar of the Debt Recovery Tribunal, Madurai may be directed to number the application.

5. The learned counsel appearing for the petitioners would draw our attention to the order passed by this Court, dated 18.08.2022 made in W.P(MD)No.19368 of 2022. Pursuant to the said order, the petitioners have paid a sum of Rs.1,25,000/- and receipt is also enclosed and further they have also paid a sum of Rs.3,75,000/- pursuant to the order of this Court, dated 23.01.2023. Whether they have paid the above said amount or not is a factual dispute and it has to be agitated before the competent Court.



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6. Considering the limited scope of the prayer that to set aside the return endorsement made by the DRT and to direct the Registrar, DRT to number the application, we are inclined to allow the Civil Revision Petition. Accordingly, this Civil Revision Petition is allowed. The Registrar, Debt Recovery Tribunal, Madurai is directed to number the SARFAESI Application within a period of two weeks from the date of receipt of a copy of this order and post the matter before the concerned Court for appropriate orders. Consequently, connected miscellaneous petition is closed.

[T.K.R.,J.] [P.B.B.,J.]
03.10.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
AM

NOTE:

Registry is directed to return the original papers to the counsel for the petitioners.

To
The Registrar,
Debts Recovery Tribunal,



Madurai.

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RMT.TEEKAA RAMAN,J.
AND
P.B.BALAJI,J.

am

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