



W.P.(MD) No.13069 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2023

CORAM:

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

**W.P.(MD) No.13069 of 2023
and
W.M.P.(MD) Nos.11065 and 11066 of 2023**

Manokaran

... Petitioner

-VS-

1. The Authorized Officer,
Assistant General Manager,
State Bank of India,
Thanjavur Main Branch,
Raja Mirasudhar Hospital Road, Thanjavur.

2. M/s. Agri Milk,
Proprietor Smt.G.Akilandeswari

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned notice of the 1st Respondent dated 06.04.2023 issued u/s. 13(2) of the SARFAESI Act r/w. Rule 3 of Security Interest (Enforcement) Rules 2022 and quash the same as the same is arbitrary, illegal and ultra-vires and violation of principles of natural justice in respect of property comprised in S.No.434/2 consisting 3 plots at



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Ramanathapuram Village Panchayat, Thanjavur District.

For Petitioner : Mr.J.Karmega Kannan

For Respondents : Mr.P.Pethu Rajesh for R1

ORDER

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

Heard Mr.J.Karmega Kannan, learned counsel appearing for the petitioner and Mr.P.Pethu Rajesh, learned counsel appearing for the first respondent.

2. Considering the nature of the relief, notice to the private respondent is deemed unnecessary.

3. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

4. Admittedly, the guarantor to whom the notice under Section 13(2) of the SARFAESI Act is addressed had died prior to the issuance of the notice itself. The legal heirs of the deceased guarantor are before this Court.



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5. In view of the fact that the notice has been addressed to the dead person and the fact that the details of the legal heirs have been made available in the writ petition, while setting aside the notice, we leave it open to the bank to issue a fresh notice to the legal heirs of the deceased guarantor alone and take appropriate further action. It shall not mean that the notice is quashed in its entirety. It is valid in respect of the secured assets belonging to the principal borrowers.

6. The writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : No
Index : No
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