



W.P(MD)No.16074 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.16074 of 2022
and
W.M.P(MD)No.11621 of 2022**

Saratha

... Petitioner

Vs.

1.The Branch Manager,
ICICI Bank Ltd.,
Karaikudi Branch,
Karaikudi,
Sivagangai District.

2.The Authorized Officer,
ICICI Bank Ltd.,
Karaikudi Branch,
Karaikudi,
Sivagangai District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records on the file of the second respondent pertaining to the impugned vacation notice issued under Section 13(4) of Securitization and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, dated 05.07.2022 and to quash the same.



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For Petitioner : Mr.S.C.Herold Singh

For R-1 & R-2 : Mr.J.Alaguram Jothi

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Heard the learned counsel for the petitioner and the learned counsel for the bank.

2. The petitioner is challenging the notice issued under Section 13(4) of the SARFAESI Act, 2002.

3. The learned counsel for the petitioner contends that excess installment has been paid by the petitioner. Still, the notice has been issued under Section 13(4) of the SARFAESI Act, 2002.

4. The learned counsel for the bank submits that the petitioner has already filed a suit raising same grounds and the bank has appeared in the suit.



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5. In fact, the notice issued under Section 13(4) of the SARFAESI Act, 2002, is with regard to the symbolic possession only. The petitioner can challenge the same before the Debts Recovery Tribunal. Even action under Section 14 of the SARFAESI Act, can be challenged before the Debts Recovery Tribunal.

6. The petitioner has already filed a suit before the civil Court raising similar grounds. The petitioner may raise whatever grounds available to her in the pending suit. Naturally, the Court will have to consider the contentions of the petitioner and the defence of the respondent bank while deciding the suit. In that event, all contentions of the respective parties are kept open.

7. The writ petition is accordingly, disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

[S.V.G., C.J.]

[L.V.G., J.]

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Index : Yes / No
Neutral Citation : Yes / No
PM



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THE HONOURABLE CHIEF JUSTICE
and
L.VICTORIA GOWRI, J.

PM

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