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W.P.(MD) No.20420 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2023

CORAM:

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

W.P.(MD) No.20420 of 2023

and

W.M.P.(MD) Nos.16854, 16855 & 16857 of 2023

M/s.Sri Balaji Traders
rep.by its Proprietor & Guarantor
U.S.Sanjeevi
No.1/18, Weavers Middle Street
Samsuigapuram
Rajapalayam-626 117

... Petitioner

-vs-

1.The Competent Authority
Reserve Bank of India
South Region
No.16, Rajaji Salai, Parrys
Chennai-600 001

2.The Branch Manager
State Bank of India
Commercial Branch
381-A, Singarajakottai
Sankarankovil Road
Rajapalayam-626 117



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3.The Authorized Officer /
Assistant General Manager
The Stressed Assets
Management Branch
State Bank of India
Raja Plaza, First Floor
No.1112-A, Avinashi Road
Coimbatore-641 037

4.Habeebullah

5.Sri Aandal Paper Mills Private Limited
rep.by its Managing Director
P.Subramaniam
D.No.41, RS Road, Ganapathy Nagar
Perundurai-638 052

6.The Sub Registrar
Sivakasi Sub Registrar Office
Sivakasi, Virudhunagar District

7.The Sub Registrar
Sathyamangalam Sub Registrar Office
Sathyamangalam
Erode District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records on the file of the second respondent in connection with the impugned sale notice issued by him vide his proceedings in SAMB/CBE/CLO-1/199-G, dated 14.06.2022 and subsequent impugned sale deed executed by him in favour of the respondents



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4 & 5 in document No.1886/2023, dated 20.02.2023 and in document No. 20/2023, dated 28.03.2023, on the file of the respondents 6 & 7 Sub Registration Office and quash the same as illegal, arbitrary and thereby direct the first respondent to take appropriate action against the third respondent for violation of the provision of SARFAESI Act within the time limit stipulated by this Court.

For Petitioner : Mr.G.Thalaimuthurasu

For Respondents : Mr.N.Dilip Kumar
Standing Counsel for R2 & R3
Mr.D.Sachi Kumar
Additional Government Pleader for R6 & R7

ORDER

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

This writ petition is filed challenging the notice dated 14.06.2022, issued by the second respondent, under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity “the SARFAESI Act”), describing the same as a sale notice.



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2. This Court finds no *bona fides* in this writ petition.

3. Earlier, the petitioner's granddaughter filed W.P.(MD) No.19779 of 2023 challenging the order dated 13.06.2023, passed by the learned Chief Judicial Magistrate, Srivilliputhur, appointing an Advocate Commissioner to take possession of the secured asset in the application in CrI.M.P.No.1865 of 2023 filed by the respondent – Bank under Section 14 of the SARFAESI Act. The granddaughter of the petitioner submitted before this Court that she is carrying on business as a tenant in the secured asset.

4. The petitioner appears to have challenged the possession notice issued by the respondent, before the Debts Recovery Tribunal, in S.A.No.1071 of 2022 and obtained an order of interim stay, on condition that he should pay certain amounts. The petitioner did not comply with the said conditional order. Thereafter, the petitioner filed S.A.No.471 of 2023, before the Debts Recovery Tribunal, challenging the proceedings pending before the learned Chief Judicial Magistrate, Rajapalayam at Srivilliputtur, in C.M.P.No.1865 of 2023 filed by the respondent – Bank under Section 14 of the SARFAESI Act.



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In the said application, the petitioner also managed to get a conditional interim order.

5. The petitioner's granddaughter approached this Court by the earlier writ petition *i.e.* W.P.(MD) No.19779 of 2023, at the time when the time granted by the Tribunal for interim payment expired. In such circumstances, this Court finds that the petitioner and his granddaughter have resorted to impugn several actions taken by the respondent – Bank at different stages with connivance and collusion.

6. Now, before this Court, the petitioner challenges the notice dated 14.06.2022, describing it as a sale notice, only on the ground the properties mortgaged by him are all agricultural lands. It is now reported that sale certificate has already been issued on 22.02.2023 and the petitioner has not even challenged the sale certificate so far. In such circumstances, this Court is not inclined to entertain this writ petition. However, it is open to the petitioner to approach the Debts Recovery Tribunal challenging the sale and raise all the contentions before the Tribunal.



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7. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

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

[D.B.C., J.]

22.08.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Sub Registrar,
Sivakasi Sub Registrar Office,
Sivakasi, Virudhunagar District.
- 2.The Sub Registrar,
Sathyamangalam Sub Registrar Office,
Sathyamangalam,
Erode District.



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