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W.P.(MD) No.19922 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

CORAM:

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

**W.P.(MD) No.19922 of 2023
and
W.M.P.(MD) Nos.16447 & 16448 of 2023**

V.Bellarmin Santhakumar

... Petitioner

-VS-

M/s.Sundaram Finance Limited
A Registered Company rep. by its
Authorized Officer K.Muthukumar
Branch Manager
Tuticorin

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records relating to the impugned order passed in Crl.M.P.No.72 of 2023, dated 10.02.2023, by the Chief Judicial Magistrate Court, Tuticorin and quash the same.

For Petitioner : Mr.H.Arumugam

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ORDER

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

This writ petition is filed to quash the order dated 10.02.2023, passed in CrI.M.P.No.72 of 2023, by the learned Chief Judicial Magistrate, Tuticorin, appointing an Advocate Commissioner to take possession of the secured asset.

2. The only contention raised by the learned counsel for the petitioner challenging the impugned order passed by the learned Chief Judicial Magistrate is that the respondent is not a financial institution, who can exercise the power under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “the SARFAESI Act”). It is further stated that even assuming that the respondent is one of the financial institutions notified under the SARFAESI Act, SARFAESI proceedings can be initiated only if the claim is more than rupees fifty lakhs.

3. This Court finds that by virtue of the notification, dated 05.08.2016 in S.O.2641(E), several institutions, including the respondent,



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have been notified as financial institutions indicating that the provisions of the SARFAESI Act apply to such financial institutions. By virtue of the subsequent notification dated 12.02.2021 in S.O.652(E), the ceiling limit of rupees of fifty lakhs has now been reduced to rupees twenty lakhs. Hence, this Court is unable to entertain this writ petition.

4. Hence, giving liberty to the petitioner to approach the Debts Recovery Tribunal for appropriate relief, this writ petition is dismissed. However, the impugned order dated 10.02.2023, passed in CrI.M.P.No.72 of 2023, by the learned Chief Judicial Magistrate, Tuticorin, shall be kept in abeyance till 31.08.2023. No costs. Consequently, connected miscellaneous petitions are closed.

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

[D.B.C., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:
The Chief Judicial Magistrate,
Tuticorin.

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