



W.P.(MD)No.24214 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.24214 of 2023

and

W.M.P.(MD)Nos.20393 and 20394 of 2023

S.V.Amrutha

... Petitioner

Vs.

1.The Authorized Officer,
Chief Manager, State Bank of India,
Stressed Assets Recovery Branch,
No.8, Dr.Ambedkar Road,
Vinayaga Nagar Branch, Madurai-625020.

2.S.J.Vijayaragavan

3.V.Sujith Kumar

...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 20.09.2023 issued under Section 13(8) of the SARFAESI Act r/w Rule 3 of Security Interest (Enforcement) Rules, 2002 and quash the same as the



W.P.(MD)No.24214 of 2023

same is arbitrary, illegal and ultra vires and violation of principles of natural justice in respect of the petitioner's $\frac{1}{2}$ share in the property comprised in S.No. 13/5B and 13/9 to an extent of 4300 sq.ft and the building on it cents situated at Mangalakudi Village, Othakadai Subdivision, Madurai District.

For Petitioner : Mr.R.G.Shankar Ganesh

For R1 : Mr.D.Sivakumar

ORDER

(Order of the Court was made by ***V.LAKSHMINARAYANAN, J.***)

The petitioner challenges the sale notice of the 1st respondent, dated 20.09.2023. Typed set of papers reveals that already a suit in O.S.No.20 of 2023 has been presented before the Principal District Court, Madurai. The petitioner claims $\frac{1}{2}$ share in the property. According to her, her father and herself are each entitled to $\frac{1}{2}$ share and the mortgagor in favour of the Bank has purchased $\frac{1}{2}$ share from her father. If the suit is decreed, it will obviously bind only $\frac{1}{2}$ share of her father and not her share. This relief sought for in the present Writ Petition can very much be obtained by way of filing an interlocutory application in the pending suit by establishing her right. A Writ Petition is not substitute for interlocutory application in a civil suit. Consequentially, reserving the right of the petitioner to



W.P.(MD)No.24214 of 2023

move interlocutory application for injunction to protect her right in O.S.No.20 of 2023, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

06.10.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva



WEB COPY



W.P.(MD)No.24214 of 2023

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

Yuva

W.P.(MD)No.24214 of 2023

06.10.2023