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W.P.(MD) No.24709 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) No.24709 of 2023

and

W.M.P.(MD) Nos.20891 & 20892 of 2023

S.Mohan

... Petitioner

-vs-

1.The Authorized Officer
IDBI Bank Limited
Salai Road Branch
No.57A, Ground Floor
Rohini City Square
Salai Road
Trichy-620 018

2.M.Mariammal
Advocate Commissioner
No.5, Rockins Road
Church Compound
Junction
Trichy-620 001

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the impugned notice issued by the second respondent / Advocate Commissioner through his letter dated 05.10.2023 relating to the order passed in CrI.M.P.No. 304 of 2022, dated 25.04.2022, on the file of the Chief Judicial Magistrate, Trichy and quash the same as illegal and consequently direct the first respondent to consider the OTS in respect of the loan account No. 1119651100003520.

For Petitioner : Mr.A.B.Jeeva

ORDER

[Order of the Court was made by V.LAKSHMINARAYANAN, J.]

A writ petition challenging the notice issued by the Advocate Commissioner pursuant to the order passed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “the SARFAESI Act”) is not maintainable. It is only in execution of the order passed under Section 14 of the SARFAESI Act, the Advocate Commissioner has issued the notice. We are afraid that a notice issued by the Advocate Commissioner does not come



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within the scope of “State” or “other Authorities” within the meaning of Article 226 of the Constitution of India. Hence, we are constrained to dismiss this writ petition as not maintainable.

2. At this stage, learned counsel for the petitioner seeks permission of this Court to approach the Debts Recovery Tribunal as against the order passed under Section 14 of the SARFAESI Act.

3. Fifteen days time from today is granted to the petitioner to approach the Debts Recovery Tribunal.

4. In fine, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[V.L.N., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:
The Chief Judicial Magistrate,
Trichy.



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