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W.P.(MD) No.26746 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2023

CORAM:

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

**W.P.(MD) No.26746 of 2022
and
W.M.P.(MD) No.20952 of 2022**

K.Dhanalakshmi

... Petitioner

-VS-

1.The Authorized Officer
IDFC Bank Private Limited
(Previously known as IDFC First Bank Ltd._
No.79/2, Bye Pass Road
Raja Parley Complex 1st Floor
Madurai-625 002

2.K.Vasanthakumar

3.R.Sivamoorthy

4.R.Poomurugan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus forbearing the first respondent from anyway bringing the secured assets for public auction sale in respect of the properties comprised in



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T.S.No.1581 and 1574 of an extent of 1507 sq.ft., situated at Door No.44A, Ward No.13, P.T.Rajan Road, Chinna Chokkikulam, Madurai City, without knowledge and notice to the petitioner and her mother and direct the first respondent Bank to adjust the loan amount in Loan Account No.19598924 payable to the first respondent from the sale proceeds, in case of public auction after due notice to the petitioner and to hand over the balance sale proceeds into three equal shares to the legal heirs of M.Karuppasamy, namely, the petitioner K.Dhanalskhmi, K.Meena and K.Vasanthakumar, excluding the lease amount in respect of the secured assets on the basis of the petitioner's representation dated 29.09.2022, within the time stipulated by this Court.

For Petitioner : Ms.S.Vijayashanthi

For Respondents : Mr.A.Sivasubramanian for R1

ORDER

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

The relief sought for in this writ petition is to forbear the first respondent from bringing the secured assets for sale.



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2. The negative prayer, as such sought for by the petitioner, preventing the Bank Authorities from exercising their powers conferred under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “SARFAESI Act”), is not entertainable. The authorities competent are well within their powers to invoke the provisions of the SARFAESI Act to recover the amounts due from the borrowers. If at all the petitioner is aggrieved from and out of the action initiated under the SARFAESI Act by the respondent – Bank, she is at liberty to approach the Bank concerned or the jurisdictional Debts Recovery Tribunal, as the case may be, for redressal of her grievance in the manner known to law.

3. With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is 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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