



WP No.8999 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

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T.P.Appadurai

.. Petitioner

-VS-

The Authorised Officer,
Indian Overseas Bank,
Asset Recovery Management Branch (1535),
Central Office Annexe Building, 3rd Floor,
763, Anna Salai, Chennai 600 002.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to declare the issuance of the sale notice dated 07.10.2023 under the Sarfaesi Act is illegal when DRC 311 of 2016 for the same loan has been issued by the Hon'ble DRT II in OA 33 of 2015.

For Petitioner : Ms.V.Archana

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ORDER

(Made by the Hon'ble Chief Justice)

We have heard Ms.V.Archana, learned counsel for the petitioner.

2. The learned counsel for the petitioner submits that recovery certificate is obtained by the bank under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (in short 'RDDBFI Act'). In view of that, the only recourse open to the bank is to proceed for execution. The bank cannot proceed under the SARFAESI Act. Reliance is placed on the judgment of the Apex Court in the case of **Allahabad Bank vs. Canara Bank and Anr.**, reported in **(2000) 4 SCC 406**.

3. The Apex Court in the case of **M/s.Transcore vs. Union of India and Anr.**, reported in **(2008) 1 SCC 125** has observed that withdrawal of O.A. pending before the Debts Recovery Tribunal under the RDDBFI Act is not a pre-condition for proceeding under the SARFAESI Act, meaning thereby that both proceedings can be proceeded with.



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4. It is not a case where the recovery certificate holder has filed an execution petition for enforcing the recovery certificate and is also proceeding under the SARFAESI Act. If such an eventuality exists, then the petitioner may raise appropriate objection.

With this observation, the writ petition stands disposed of.
There shall be no order as to costs.

(S.V.G., CJ.) (J.S.N.P., J.)
03.04.2024

Index : Yes/No
Neutral Citation : Yes/No

sra

To

The Authorised Officer,
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THE HON'BLE CHIEF JUSTICE
AND
J.SATHYA NARAYANA PRASAD, J.

(sra)

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