



WEB COPY



WP.No.13271 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.13271 of 2024
WMP.No.14408 and 14410 of 2024

1. S.Jeyakumar
2. J.Padmavathi

Petitioners

Vs

1. Union of India, by its Secretary, Finance Department, New Delhi
2. Reserve Bank of India, by its Secretary, Mumbai
3. The Authorised Officer, M/s.Five Star Business Finance Limited
Chennai-10

Respondents

Prayer:- This Writ Petition has been filed, under Article 222 of the Constitution of India, for issuance of Writ of Prohibition, prohibiting the 3rd Respondent from initiating any proceedings under the SARFAESI Act in pursuance of possession notice under Section 113(4) of the SARFAESI Act and also physical possession against the Petitioners' property in pursuant of the order of the Chief Judicial Magistrate, Thiruppur, dated 25.04.2024 passed in CrI.MP.No.33427 of 2024, which is situated at



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SF.No.436 Part (layout formed in SF.No.436 measuring 10.50 acres) plot No.43 Part, Door No.1554-A, Vanji Nagar, Palavanjipalayam Road, Thiruppur 641608 in Veerapandi Village, Thiruppur Taluk, Thiruppur District with an extent of 1200 sq.ft. of land with building.

For Petitioner : Mr.P.Saravanan

For Respondents : Mr.M.Karthikeyan, SPC-R1
Mr.M.Umashankar-R3
No Appearance-R2

ORDER

(Order of the Court was made by S.S.SUNDAR, J.)

1. This Writ Petition has been filed for issuance of Writ of Prohibition, prohibiting the 3rd Respondent from initiating any proceedings under the SARFAESI Act in pursuance of possession notice under Section 13(4) of the SARFAESI Act and also physical possession against the Petitioners' property in pursuant of the order of the Chief Judicial Magistrate, Thiruppur, dated 25.04.2024 passed in CrI.MP.No.33427 of 2024, which is situated at SF.No.436 Part (layout formed in SF.No.436 measuring 10.50 acres) plot No.43 Part, Door No.1554-A, Vanji Nagar, Palavanjipalayam Road, Thiruppur 641608 in Veerapandi Village, Thiruppur Taluk, Thiruppur District with an extent of 1200 sq.ft. of land with building.



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2. This court heard the learned counsel for the Petitioners and the contesting Respondents and considered their submissions and also carefully perused the materials placed on record.
3. It is an unwanted litigation by the Petitioners, praying for an injunction restraining the Respondents from proceeding further under Section 13 of the SARFAESI Act, initiated by the Respondents. Only contention raised by the Petitioners is that the 3rd Respondent Bank is not a Financial Institution, which is authorised to initiate proceedings under the SARFAESI Act. It is admitted that the property is sold.
4. The learned counsel for the contesting Respondents produced before this Court a copy of the notification issued by the Ministry of Finance in exercise of power conferred by sub clause (iv) of clause (m) of sub section (1) of Section 2 of the SARFAESI Act. The 3rd Respondent, namely, M/s.Five Star Business Finance Limited, is shown as one of the non-banking Financial Company, who has been notified as a Financial Institution. Therefore, the only contention raised by the Petitioners is devoid of merits. Consequently, it is also stated by the Respondents that proceedings have already been initiated for sale of secured assets and the Petitioners have not challenged the sale. In such circumstances, this



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Court is unable to entertain this Writ Petition. However, the Petitioner is at liberty to exhaust alternative and efficacious remedy of approaching the Debt Recovery Tribunal, challenging the sale proceedings.

5. With the above liberty preserved to the Petitioners, this Writ Petition is dismissed. No costs. Consequently, the connected MPs are closed.

(S.S.S.R.J.) & (N.S.J.)
25.07.2024

Index: Yes/No
Web: Yes/No
Speaking/Non Speaking
Neutral Citation
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To

1. The Union of India, by its Secretary, Finance Department, New Delhi
2. Reserve Bank of India, by its Secretary, Mumbai

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