



WEB COPY

W.P.No.14493 of 2024



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 10.06.2024

CORAM:

**THE HON'BLE MR.JUSTICE S.S.SUNDAR  
and  
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

**W.P.No.14493 of 2024  
and W.M.P.Nos.15760 & 15761 of 2024**

1.M/s.Dart Tex,  
Represented its Partner,  
Shri S.K.Thangamuthu,  
4/58, Nadupatti PO.,  
Vijayamangalam,  
Avinashi Tk, Tirupur – 638 056.

2.Shri S.K.Thangamuthu

...Petitioners

vs.

1.The Authorised Officer,  
Karnataka Bank Limited,  
Asset Recovery Management Branch,  
No.324, Ground Floor,  
Thambu Chetty Street,  
Chennai – 600 001.

2.Smt.Muthusamy Priyadharshini

...Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India, to  
issue a Writ of Mandamus to direct the respondents not to proceed  
further through the Advocate Commissioner till pending disposal of  
S.A.No.379 of 2021 pending on the file of DRT Coimbatore.



For Petitioners : Mr.B.Sriram

For Respondents : Mr.R.Imayavaramban for R1  
for Ramalingam & Associates

Mr.Vijay Balu S.B. for R2

### **ORDER**

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

This writ petition is filed by the borrower for a Mandamus directing the respondents not to proceed further through the Advocate Commissioner till the Sarfaesi Application S.A.No.379 of 2021 pending before the Debt Recovery Tribunal, Coimbatore is disposed of by passing orders.

2.The petitioners availed some credit facilities from the first respondent bank by executing a Memorandum of Title Deeds. It is admitted by the petitioners that the first respondent issued notice under Section 13(2) of Sarfaesi Act, 2002 on 13.07.2020. The possession was also allowed by proceedings dated 20.07.2020. The petitioners state that they submitted a letter for One Time Settlement offering a sum of Rs.30,00,000/- in February 2021. The grievance of the petitioners all along is that the first respondent has not considered the One Time Settlement despite the petitioners improving his offer later.



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3.The petitioners have challenged the sale proceedings before the Debt Recovery Tribunal in S.A.No.379 of 2021. It appears that the petitioners were not granted any interim order by the Debt Recovery Tribunal and hence the petitioners approached this Court by way of filing a Civil Revision Petition in C.R.P.No.1570 of 2021.

4.It is now admitted before this Court that the said Civil Revision Petition was also disposed of without interfering with the orders of the Tribunal refusing to grant interim order by recording the confirmation of sale and issuance of sale certificates.

5.Further, learned counsel appearing for the auction purchaser has produced before this Court, the order passed in W.P.No.8870 of 2022 filed by the petitioners. The prayer was for issuance of writ of declaration to declare the e auction sale notice dated 12.05.2021 and the confirmation of sale by issuing sale certificate as illegal and unconstitutional.

6.The writ petition was dismissed referring to the alternative remedy available to the petitioners under Section 17 of the Sarfaesi Act, 2002. Despite the pendency of the Sarfaesi Application in S.A.No.379 of 2021 and despite the dismissal of W.P.No.8870 of 2022 and the Civil



Revision Petition filed by the petitioners earlier, the present writ petition is filed.

7.Learned counsel appearing for the auction purchaser submitted that the petitioners have taken possession earlier pursuant to the order/direction of the learned Chief Judicial Magistrate. Later at the instance of the tenants/the respondent showed some intelligence by way of filing of another application before the learned Chief Judicial Magistrate for taking possession under Section 14 of the Sarfaesi Act, 2002. Referring to the facts, learned counsel appearing for the second respondent pointed out the conduct of the petitioners all along. This Court on the admitted facts find that the writ petition of this nature cannot be entertained especially when the petitioners have effective alternative remedy of approaching the Tribunal. In this case, the petitioners have availed the alternative remedy. There cannot be a mandamus or injunction restraining the authorities to take action in accordance with law.

8.This Court granted interim injunction earlier by 30.05.2024 on a condition that the petitioners should deposit a sum of Rs.40,00,000/- (representing the entire outstanding) within a period of 10 days on or



before 10.06.2024. The petitioners have not produced before this Court any proof for payment but the learned counsel expressed hope.

9.This Court having regard to the sequence of the facts narrated is not inclined to entertain the writ petition. However, liberty is given to the petitioners to workout his remedies before the Debt Recovery Tribunal in accordance with law.

10.With the above observation, this writ petition is dismissed.  
No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R.,J.) (N.S.,J.)  
10.06.2024

Index: yes/no  
Speaking order:yes/no  
Neutral Citation:yes/no  
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**S.S.SUNDAR, J.**  
and  
**N.SENTHILKUMAR, J.**

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