



WEB COPY



WP.No.14715 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

WP.No.14715 of 2024  
WMP.Nos.15954 to 15956 of 2024

S.Dominic

Petitioner

Vs

1. The Enocre Asset Reconstruction Pvt. Limited  
5<sup>th</sup> Floor, Plot No.13, Sector 44, Guragon

2. C.Dinakaran

Respondents

Prayer:- This Writ Petition has been filed, under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the proceedings dated 04.07.2023 in Transferred Appeal No.7 of 2023 in MASR No.50 of 2021 in DCR.No142 of 2021 in OA.No.164 of 2015 and to quash the same.

For Petitioner : Mr.S.Mannarsamy

ORDER

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

1. This Writ Petition is filed to issue a Writ of Certiorari to call for the records relating to the proceedings dated 04.07.2023 in Transferred Appeal No.7 of 2023 in MASR No.50 of 2021 in DCR.No142 of 2021 in OA.No.164 of 2015 and to quash the same.



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2. This Court heard learned counsel for the Petitioner.

3. The Petitioner states that he is the founder Trustee of Early Apostolic Revival Church and that the property, in which the Petitioner is running the Charity, belonged to the 2nd Respondent. The Petitioner admits that the 2nd Respondent had mortgaged the property and proceedings had been initiated by the 1st Respondent against the 2nd Respondent and orders have been passed.

4. Except the tenancy agreement, which is an unregistered document, no other document is produced before this Court. The Petitioner being a Tenant if his tenancy is before the mortgage, he may move an independent application before the Debt Recovery Tribunal under Section 17(4)A of the SARFAESI Act. However, the Petitioner has approached the Recovery Officer on the basis of an unregistered agreement of lease, which is not even admissible in evidence. Therefore, the Recovery Officer rejected the Petitioner's application as not maintainable and the same was challenged before the Debt Recovery Tribunal in a transferred appeal. The Tribunal also found no merits in the appeal and hence, dismissed the transfer appeal by order dated 04.07.2023. This order passed by the Debt Recovery Tribunal is under challenge in this Writ Petition.

5. The Petitioner has not even produced any other document except the document, which is only an unregistered document. Hence, the tenancy itself is in issue and questionable. However, except the remedy provided under Section 17(4)(A) of the SARFAESI Act, this Court is unable to find any



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other right and the Petitioner has not even produced the order passed by the Recovery Officer, which is impugned in the transferred appeal before the DRT. This Court finds no reason to interfere with the impugned order of the Tribunal and hence, this Writ Petition is liable to be dismissed and accordingly, it is dismissed. No costs. Consequently, the connected WMPs are closed.

(S.S.S.R.J.) & (N.S.J.)  
07.06.2024

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