



WEB COPY



W.P.No.17391 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.17391 of 2024

A.Saleem

... Petitioner

Vs.

1.The Registrar,
Debt Recovery Appellate Tribunal Chennai,
7th Floor, Shastri Bhavan,
Additional Office Building, Haddows Road,
Egmore, Chennai – 600 006.

2.The Authorised Officer,
City Union Bank Ltd.,
Tenkasi Branch,
Door No.342-D, Courtallam Road,
Near Yanaipalayam, Tenkasi – 627 811,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent Bank not to take further measures under Section 13(4) or Section 14 from the date of filing the appeal on 01.11.2022, “status quo” having come into effect from



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that date and the property cannot be transferred or otherwise dealt with by the Authorised Officer of the Respondent Bank till the disposal of the Waiver Petition IA No.392 of 2024 in AIR (SA) No.670 of 2024.

For Petitioner : Mr.S.Gomathi

ORDER

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

This writ petition is filed for issuance of a Writ of Mandamus directing the 2nd respondent Bank not to take further measures under Section 13(4) or Section 14 from the date of filing the appeal on 01.11.2022, as “status quo” having come into effect from that date and the property cannot be transferred or otherwise dealt with by the Authorised Officer of the Respondent Bank till the disposal of the Waiver Petition in I.A.No.392 of 2024 in AIR (SA) No.670 of 2024.

2.The petitioner is a borrower who has admittedly received substantial amount from the respondent Bank. It is admitted that a demand notice under Section 13(2) was issued to the petitioner on 04.05.2018 stating that the account of the petitioner became NPA with effect from 30.01.2018. The



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respondent Bank issued a sale notice dated 28.02.2019 and it is stated that the petitioner has challenged the sale notice by filing a SARFAESI application in S.A.No.195 of 2019. It appears that the condition imposed by Debt Recovery Tribunal for granting interim order was complied. It is also admitted by the petitioner that the said SARFAESI application in S.A.No.195 of 2019 was dismissed on the ground that the application became infructuous. The reason for dismissing the SARFAESI application as infructuous is that no sale had taken place pursuant to the sale notice.

3.After dismissal of the SARFAESI application as infructuous, the petitioner has filed an appeal before the Debt Recovery Appellate Tribunal in AIR (SA) No.670 of 2024. Pending appeal before the Debt Recovery Appellate Tribunal, the petitioner has filed an Interlocutory Application in I.A.No.392 of 2024 for waiver under Section 18(1) of the SARFAESI Act.



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4. Now, the petitioner has come forward with the present writ petition with a prayer to direct the 2nd respondent Bank not to take further measures either under Section 13(4) or 14 of SARFAESI Act from the date of filing the appeal on 03.05.2024 as against the order passed in SARFAESI application, as “status quo” having come into effect from that date and the property cannot be transferred or otherwise dealt with by the Authorised Officer of the Respondent Bank till the disposal of the Waiver Petition.

5. The purpose of this writ petition is obvious. The petitioner has filed an appeal before the Debt Recovery Appellate Tribunal which is not warranted having regard to the fact that the sale had not taken place pursuant to the sale notice. The prayer in the present writ petition is that, till such time the waiver petition filed in the appeal is disposed of, no further proceedings should be initiated by the Bank either under Section 13(4) or 14 of the Act. The conduct of the petitioner is unfair. Hence, for want of merits and *bona fides*, this writ petition is dismissed with a warning that, if the petitioner indulges in such practice in future, he will be mulcted with exemplary cost. No costs.



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(S.S.S.R., J.) (N.S., J.)
04.07.2024

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To

The Registrar,
Debt Recovery Appellate Tribunal Chennai,
7th Floor, Shastri Bhavan,
Additional Office Building, Haddows Road,
Egmore, Chennai – 600 006.

S.S. SUNDAR, J.
and
N. SENTHILKUMAR, J.



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