



W.P.No.28751 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.28751 of 2024

M/s. Suryaprakas Foundary
Rep. by its Proprietor M.Kanagarajan
No.73, SIDCO Industrial Estate
Pollachi Road, Coimbatore 641 021.

.. Petitioner

Vs.

1. Tamilnad Mercantile Bank Ltd.
Podanur Branch
Rep. by its Authorised Officer
Podanur, Coimbatore 641 021.

2. M/s. Valvetecq Engineers
SF 187/IC, SNMV College Road
Malumichampatti
Coimbatore 641 050.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari calling for records pertaining to the e-auction proceedings dated 26.10.2023 in S.A.No.759/2023 culminating in the issue of sale certificate of subject immovable property dated 13.06.2024



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and to quash the impugned sale certificate registered as document No.4526 of 2024 dated 13.06.2024 at the office of SRO, Madukarai, Coimbatore.

For Petitioner : Mr.V.Raghavachari
Senior Counsel
For Mr.P.Madhavan

For Respondents : Mr.V.Chandrasekaran
for Respondent-1

ORDER

(Order of the Court was made
by the Hon'ble Chief Justice)

Petitioner has impugned the sale certificate issued under the SARFAESI proceedings.

2. Petitioner has alternative remedy under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Petitioner may exercise the same. Therefore, we do not wish to entertain this petition.

3. At this time, Shri Chandrasekaran states that if there are some movables within the premises of which possession has already been taken, petitioner may, should he wish to, take possession of those movables. For



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that, Shri Chandrasekaran stated petitioner may approach first respondent who shall facilitate the same expeditiously.

5. It will also be apposite to quote paragraphs 6 and 7 of the order dated 05.08.2024 passed by this Court in *Ramesh v. Authorised Officer, State Bank of India [W.P.No.21799 of 2024]*, which read as under:

“6. In *Phoenix ARC Private Limited v. Vishwa Bharati Vidya Mandir and others*, (2022) 5 SCC 345, after taking note of various earlier decisions, the Apex Court held that writ petitions at the instance of borrowers against the proposed action to be taken under Section 13(4) of the SARFAESI Act, 2002 is an abuse of process of the Court in view of the statutory, efficacious remedy available by way of appeal under Section 17 of the SARFAESI Act. It was further held that under such situation the High Court ought not to have entertained the writ petitions. The relevant portion of the said decision reads thus:

"10. In Union Bank of India v. Satyawati Tandon, (2010) 8 SCC 110, it was observed and held by this Court that the remedies available to an aggrieved person against the action



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taken under Section 13(4) or Section 14 of the SARFAESI Act, by way of appeal under Section 17, can be said to be both expeditious and effective.

...

12. In the case of Kanaiyalal Lalchand Sachdev v. State of Maharashtra, (2011) 2 SCC 782, after referring to the earlier decisions of this Court in the cases of Sadhana Lodh Vs. National insurance Co. Ltd. and Anr., (2003) 3 SCC 524; Surya Dev Rai Vs. Ram Chander Rai and Ors., (2003) 6 SCC 675 and State Bank of India Vs. Allied Chemical Laboratories and Anr., (2006) 9 SCC 252 while upholding the order passed by the High Court dismissing the writ petition on the ground that an efficacious remedy is available under Section 17 of the SARFAESI Act, it was observed that ordinarily relief under Articles 226/227 of the Constitution of India is not available if an efficacious alternative remedy is available to any aggrieved



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person.”

[emphasis supplied]

7. Very recently, the Apex Court in the case of *South Indian Bank Ltd and others v. Naveen Mathew Philip and another*, MANU/SC/0400/2023, deprecated the practice adopted by the High Courts whereby the writ petitions are being entertained as against proceedings initiated by the secured creditor under SARFAESI Act and further held that when the statute prescribes a particular mode, an attempt to circumvent should not be encouraged by the writ Court.”

6. The writ petition is dismissed. There shall be no order as to costs.

Consequently, W.M.P.Nos.31358 and 31429 of 2024 are also dismissed.

(K.R.SHRIRAM, CJ)

(D.KRISHNAKUMAR,J.)

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Index : Yes/No
Neutral Citation : Yes/No

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To

The Authorised Officer
Tamilnad Mercantile Bank Ltd.
Podanur Branch
Podanur
Coimbatore 641 021.



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THE HON'BLE CHIEF JUSTICE
AND
D.KRISHNAKUMAR,J.

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