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W.P.NO.33259 OF 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

W.P.NO.33259 OF 2019

AND WMP NO.33723 OF 2019

J.Kannaki

... Petitioner

Vs.

1.Union of India

Rep. by its the Joint Secretary /
Central Registrar of Co-operative Societies
Ministry of Agriculture
Krishi Bhavan, Rajendra Prasad Road,
New Delhi – 110 001.

2.Reserve Bank of India

Rep. By its Principal Chief Manager
Department of Co-operative Bank Regulation
Garment House, Dr.Annie Besant Road,
Mumbai – 400 018.

3.The Repatriates Co-operative Finance and

Development Bank Ltd. (Repco Bank)

Represented by its Managing Director
Head Office – No.33, North Usman Road,
T.Nagar, Chennai – 600 017.



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4.The Repatriates Co-operative Finance and
Development Bank Ltd. (Repco Bank)

Represented by its Authorized Officer
Plot No.2, M.K.B.Nagar, West Avenue,
Vyasarpadi, Chennai – 600 039.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the 4th respondent dated 10.09.2019 possession notice issued under SARFAESI Act and quash the same as the Repco Bank is not legally entitled to invoke the provisions of SARFAESI Act.

For Petitioner	:	Mr.B.Ullasavelan
For Respondents 1 & 2	:	Not ready in notice
For Respondents 3 & 4	:	No appearance

ORDER

Respondents 1 and 2 are not served. Despite service, none appears for the respondents 3 and 4.

2.Challenge in this writ petition is to the possession notice issued under Section 13(12) of the Securitisation Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with Rule 8 of the Security Interest (Enforcement) Rules, 2002.



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3.A Division Bench of this Court in ***S.P.GANESAN VS. THE***

AUTHORISED OFFICER, REPCO BANK [W.P.No.33133 of 2019

decided on 03.03.2021] had held that the respondent Bank being a Co-operative Society cannot invoke the provisions of the SARFAESI Act.

4.In view of the said pronouncement of the Division Bench of this Court, the writ petition stands allowed. The impugned possession notice dated 10.09.2019 issued under Section 13(12) of the Securitisation Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with Rule 8 of the Security Interest (Enforcement) Rules, 2002 is quashed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[R.S.V., J.]

07.03.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
Speaking Order / Non-speaking Order

TK



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To

1.The Joint Secretary /
Central Registrar of Co-operative Societies
Union of India
Ministry of Agriculture
Krishi Bhavan, Rajendra Prasad Road,
New Delhi – 110 001.

2.The Principal Chief Manager
Reserve Bank of India
Department of Co-operative Bank Regulation
Garment House, Dr.Annie Besant Road,
Mumbai – 400 018.

3.The Managing Director
The Repatriates Co-operative Finance and
Development Bank Ltd. (Repco Bank)
Head Office – No.33, North Usman Road,
T.Nagar, Chennai – 600 017.

4.The Authorized Officer
The Repatriates Co-operative Finance and
Development Bank Ltd. (Repco Bank)
Plot No.2, M.K.B.Nagar, West Avenue,
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AND

R.SAKTHIVEL, J.

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