



WEB COPY

W.P.No.34825 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.34825 of 2023
and
W.M.P.No.34832 of 2023

Mrs.R.Bhuvaneshwari

.. Petitioner

VS

1.M/s. Canara Bank
Rep. By its Authorized Officer,
No.5/4 1st Floor, RVR Building,
Head Quarters Road,
Coimbatore – 641 018.

2.The Sub Registrar,
O/o. Sub Registrar,
Ganapathy, Saravanampatti,
Coimbatore.

3.V.Arun

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of declaration to declare all the actions initiated by the 1st respondent on the petitioner in her capacity as guarantor pursuant to the advancement of SOD Loan Account No. 61211400000671 to M/s. Ganesh Builders as null and void ab initio one without jurisdiction, hit by limitation and not done in accordance with law.

For Petitioner : Mr.Hari Viswanath

For Respondents : Mr.M.A.Abdul Wahab, for R1
Mr.P.Harish, Government Advocate
for R2
Mr.V.Janarthanan for R3



W.P.No.34825 of 2023

ORDER

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The present writ petition has been filed by an individual seeking declaration that all actions initiated by R.Bhuvaneshwari in her capacity as guarantor pursuant to the advancement of financial facilities in SOD Loan Account No. 61211400000671 to one M/s.Ganesh Builders is null and void and without jurisdiction.

2. The petitioner claims that financial facilities have been obtained by M/s.Ganesh Builders. She admits that she stood as guarantor to M/s.Ganesh Builders. She had mortgaged her property as collateral security. She also admits to the fact that the borrower had defaulted, and that the account had been declared as a Non Performing Asset on 28.06.2019.

3. The respondents would submit that legal action has been taken under appropriate and applicable provisions of the Recovery of Debts due to Banks and Financial Institutions Act and the SARFAESI Act and the matter is pending before the Debts Recovery Tribunal, Coimbatore.

4. The petitioner has also challenged and has sought mandamus in W.P.No.5125 of 2024, forbearing any action pursuant to an order passed by the Chief Judicial Magistrate, Coimbatore on 09.06.2023. That writ petition had been disposed by the Bench with a direction to the Chief Judicial Magistrate to issue fresh warrant of commission to execute order dated 09.06.2023 in CrI.M.P.No.14576 of 2023. In order dated 01.07.2024, the Division Bench has concluded that the direction to the



W.P.No.34825 of 2023

Chief Judicial Magistrate is without prejudice to the rights of the petitioner in the present writ petition.

5. However, on a perusal of averments in the writ affidavit as well as rival submissions advanced before me, I am of the categorical view that, the prayer, as sought for by the petitioner is not liable to be considered as it involves assimilation of various facts which are already at issue before various other fora, such as civil court and the Debts Recovery Tribunal, and will be best appreciated by them.

6. As may be seen the prayer is wide and a omnibus declaration of the nature as sought for by the petitioner cannot, under any circumstances, be countenanced. Let the petitioner pursue the remedies availed by her by way of the litigation already initiated and pending.

7. With this, writ petition and connected miscellaneous petition are dismissed. No costs.

30.07.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

1.The Authorized Officer,
Canara Bank
No.5/4 1st Floor, RVR Building,
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2.The Sub Registrar,
O/o. Sub Registrar,
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W.P.No.34825 of 2023

DR. ANITA SUMANTH,J.

ssm

W.P.No.34825 of 2023

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