



W.P.(MD) No.548 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.548 of 2023

and

W.M.P(MD)Nos.555 and 556 of 2023

M/s.Sri Dhanvi Products,
Rep. by its Proprietor S.Muniswaran

... Petitioner

Vs.

1.The Authorized Officer,
Shriram Transport Finance Company Ltd.,
Regional Office,
N.R.Grand, 103AC, Katcheri Road,
IOB Bank Upstairs Back Side,
Madurai Main Road,
Virudhunagar.

2.The Branch Manager,
Shriram Transport Finance Company Ltd.,
69/18-A, T.P.Mills Road, 1st Floor,
Opp. To Head Post Office,
Rajapalayam,
Virudhunagar District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned possession notice issued by the first respondent dated 14.07.2022 and quash the same as illegal.

For Petitioner :Mr.G.Kaaleswaran

For R-1 & R-2 :Mr.Anand C.Rajesh



W.P.(MD) No.548 of 2023

WEB COPY

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The petitioner has filed this writ petition, challenging the impugned possession notice issued by the first respondent, dated 14.07.2022 under Section 13(4) of the SARFAESI Act, 2002.

2.The learned counsel for the respondent - Financial Institution submitted that the petitioner is having effective alternative remedy before the Tribunal. Without exhausting such remedy, the petitioner has filed this writ petition and the same is liable to be rejected.

3. Heard the submissions made on either side and perused the materials placed on record.

4. By following the decision of the Hon'ble Apex Court, a Division Bench of this Court in ***Digivision Electronics v. Indian Bank and Anr.*** [W.P.No.13056 of 2005 decided on 07.07.2005], has held as follows:

“40.In some writ petitions action had been taken by the secured creditor under [Section 13\(4\)](#) of the Securitisation



WEB COPY



W.P.(MD) No.548 of 2023

Act. In this connection, [Section 17](#) of the Securitisation Act provides for a remedy before the Debt Recovery Tribunal having jurisdiction in the matter. Hence, in cases where action has been taken under [Section 13\(4\)](#) of the Securitisation Act there is an alternative remedy to approach the Debts Recovery Tribunal under [Section 17](#) of the Securitisation Act and the writ petitions challenging the action under [Section 13\(4\)](#) of the Securitisation Act are dismissed on the ground of alternative remedy. However, on the special facts of the case and considering the fact that a large number of petitions on this point had been entertained by this Court we permit the filing of the application under [Section 17](#) with the requisite prescribed fee within one month from today, and if that is done, the application will be entertained by the Tribunal without raising any objection as to limitation and shall be decided on merits expeditiously thereafter. ”

5. In the light of the above, this writ petition stands dismissed with liberty to the petitioner to approach the Debts Recovery Tribunal to work out his remedy. No Costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.]

[R.V., J.]

29.02.2024

Neutral Citation: Yes / No

Index : Yes / No

PM



WEB COPY



W.P.(MD) No.548 of 2023

D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

PM

W.P.(MD)No.548 of 2023

29.02.2024