



W.P.(MD) No.2498 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.2498 of 2024

and

W.M.P.(MD)Nos.2481 to 2491 of 2024

S.Jeyapal

... Petitioner

-Vs-

1.The Authorised Officer,
Bank of Baroda,
Kamagoundapatti,
Theni District.

2.S.Joseph Patric
3.R.Gnanam Jancy Rani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records on the file of the 1st respondent starting from the Demand Notice dated 10.07.2015 ending with sale, quash the same and consequently cancel the sale conformation and issue of sale certificate.



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For Petitioner : Mr.S.Rengasamy
For R1 : Mr.B.Senthilkumar

ORDER

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

Challenging the demand notice dated 10.07.2015 issued by the first respondent ending with sale, the petitioner has filed the present writ petition with a consequential prayer to cancel the sale confirmation.

2.Mr.B.Senthilkumar, learned counsel accepts notice for the first respondent. Considering the nature of order going to be passed in this writ petition, notice to the second respondent is dispensed with. By consent of both parties, this writ petition is taken up for final disposal at the time of admission itself.

3.The learned counsel appearing for the first respondent submits that the petitioner has filed a writ petition challenging the impugned demand notice issued by the first respondent in W.P.(MD)No.26813 of 2022 and the same was



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dismissed by an order dated 20.12.2023 by directing the petitioner to approach the Debts Recovery Tribunal. A copy of the order dated 20.12.2023 was also produced before this Court. Now challenging the very same demand notice, the petitioner has filed the present writ petition suppressing the material facts.

4.In the earlier round of litigation, this Court observed that as against the order passed under Section 14 and any other measure initiated under Section 13(4) of the SARFAESI Act, the petitioner has an alternative remedy by way of filing an appeal before the jurisdictional Debts Recovery Tribunal under Section 17 of the SARFAESI Act. The petitioner was also granted 15 days time to approach the Tribunal. However, the petitioner without filing an appeal, has approached this Court with the very same prayer that too by suppressing the earlier round litigation initiated by him. It is nothing but an attempt of forum shopping.

5.The petitioner without availing the alternative efficacious appeal remedy, is filing frivolous petitions before this Court and had indulged in forum shopping by approaching the different courts for the same relief. A classic example of forum shopping is when a litigant approaches one Court for relief but



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does not get the desired relief and then approaches another Court for the same relief. This occurred in *Rajiv Bhatia v. Govt. of NCT of Delhi and others* [(1999) 8 SCC 525].

6.In the light of the above decision, we are not inclined to entertain this Writ Petition. Accordingly, this writ petition stands dismissed with costs. The petitioner shall pay a sum of Rs.25,000 (Rupees Twenty Five Thousand only) to the credit of the Environmental Fund Operated by Member Secretary, Tamil Nadu State Legal Services Authority [Account No.6656485009; IFSC Code: IDIB000H040, High Court Branch, Chennai] and a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the High Court Legal Services Authority within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
07.02.2024

NCC : Yes / No
Index : Yes / No
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