



W.P(MD)No.5715 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.5715 of 2024
and
W.M.P(MD)Nos.5403 and 5405 of 2024

M.G.Pare

... Petitioner

vs.

The Authorized Officer,
State Bank of India,
SARB, No.8, Dr.Ambedkar Road,
Vinayagar Nagar Branch I Floor,
Madurai – 625 020.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the sale notice, dated 28.02.2024 issued by the respondent herein and quash the same.

For Petitioner

: Mrs.A.L.Gandhimathi,
Senior Counsel for
Mr.C.Mahadevan

For Respondent

: Mr.P.Pethu Rajesh



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed this writ petition challenging the impugned sale notice, dated 28.02.2024, issued by the respondent.

2. When the matter is taken up for hearing today, it is stated before this Court that challenging the impugned sale notice issued by the first respondent, the petitioner has already filed a Securitization Application in S.A.No.565 of 2023 wherein a conditional order has been passed by the Tribunal and the same has not been complied with and therefore, the stay granted was vacated. Subsequently, the respondent issued the impugned notification for selling the property through e-auction and the same is now under challenge.

3. It is further submitted that the petitioner has already approached the Debt Recovery Appellate Tribunal and filed an application in S.A.No.87 of 2024 challenging the sale notice as well as the order passed by the learned Chief Judicial Magistrate, Madurai under Section 14 of the SARFAESI Act,



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2002. But, no interim order was granted in the said application. Hence, the petitioner has filed this writ petition with the aforesaid prayer.

4. However, we are of the view that when the petitioner is having effective alternative remedy before the Debts Recovery Appellate Tribunal, the present writ petition filed before this Court, is not maintainable in view of the decision in ***Digivision Electronics v. Indian Bank and Anr. [W.P.No.13056 of 2005 decided on 07.07.2005]***.

5. In the result, this writ petition is dismissed with a liberty to the petitioner to work out his remedy in the manner known to law. No Costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
11.03.2024

NCC : Yes / No
Index : Yes / No
PM



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

PM

ORDER MADE IN
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