



WEB COPY



W.P.No.7354 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,  
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.7354 of 2025

&

W.M.P.No.8203 of 2025

Thilagavathy

.. Petitioner

Vs.

1. The Branch Manager  
Bajaj FinServ  
Plot No 1&2, First Floor  
Ramamurthy Avenue Main Road  
Porur, Chennai 6000116.
2. The Recovery officer  
Bajaj Housing Finance Ltd (Bajaj Finserv)  
Office at Ground Floor  
Chateaud Ampa  
No.37, Nelson Manickam Road  
Chennai-600029.
3. The Banking Ombudsman  
Reserve Bank of India  
No 100, Anna Salai Guindy  
Chennai 600032.
4. S.Karthikeyan



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5. The Sub Registrar  
Pammal  
Kancheepuram District.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the 5<sup>th</sup> Respondent to cancel the sale certificate was registered vide Document No.888/2025 dated 03.02.2025 on the file of Sub Registrar Pammal, Kancheepuram District.

For Petitioner : Dr.G.Babu

For Respondents : Mr.M.Arunachalam  
for Respondents 1 & 2

Mr.T.Poornam  
for Respondent-3

No appearance  
for Respondents 4 & 5

ORDER

(Order of the Court was made by  
the Hon'ble Chief Justice)

Challenge is made to the auction proceedings and sale of the mortgaged property by petitioner (widow of the deceased borrower)



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mainly on the ground that she did not receive any notice, being the legal representative of the deceased borrower, from the bank and that she came to know about the auction sale through publication.

2. Serious objection to the legality of the proceedings has been taken on the ground that though petitioner's husband died way back on 20.08.2020, no notice was ever served on petitioner, be it under Section 13(2) or 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 or any other notice, including the notice required under Rule 9 of the Security Interest (Enforcement) Rules, 2002. Therefore, the entire proceedings are void.

3. We find that all the grounds, which are taken in the petition, are essentially those which require enquiry into facts before application of law. We are of the view that in that case, petitioner should first exhaust her statutory remedy available under law, by making the application under Section 17 of the Act before the jurisdictional Debts Recovery Tribunal, taking all such grounds



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as may be available to her under law, in the matter of challenge to the sale certificate.

4. Accordingly, this petition is dismissed. However, with liberty to approach the jurisdictional Debts Recovery Tribunal in the matter of challenge to sale notice and sale certificate.

5. This petition was filed on 27.02.2025, i.e. before the expiry of the period of limitation in the matter of challenge to the validity of sale certificate and all other proceedings of sale and auction. Therefore, keeping that in view, we direct that if petitioner approaches the jurisdictional Debts Recovery Tribunal within the period of limitation prescribed under Section 17 of the SARFAESI Act, which shall be calculated from today, the Debts Recovery Tribunal shall decide the application treating it to be within the period of limitation.



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6. There shall be no order as to costs. Consequently, the interim application is also dismissed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)  
29.10.2025

Index : Yes/No  
Neutral Citation : Yes/No

kpl

To

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THE HON'BLE CHIEF JUSTICE  
AND  
G.ARUL MURUGAN,J.

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