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W.P.No.36348 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.36348 of 2025
and WMP Nos.40616 and 40617 of 2025

R.Sudha

.. Petitioner

Vs.

M/s.Punjab and Sind Bank,
827, Oppanakkara Street,
Coimbatore - 641 001.
(represented by its authorized officer).

.. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari calling for the records of the respondent issued demand notice under Section 13(2) dated 14.06.2024 and also under Section 13(4) possession notice dated 30.11.2024, quash the same.

For Petitioner : Mr.P.M.Baktavasalan
for Ms.S.Prathibaa

For Respondent : Mr.J.Senthilkumar



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ORDER

(Order of the Court was made by G.Arul Murugan, J.)

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Heard Mr.P.M.Baktavasalan, learned counsel for Ms.S.Prathibaa for the petitioner and Mr.J.Senthilkumar, learned counsel for the respondent.

2. The petitioner, a partner of the borrower, challenges Section 13(2) notice dated 14.06.2024 and Section 13(4) notice dated 30.11.2024 issued under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [hereinafter referred to as "the Act"].

3. It is the contention of the learned counsel for the petitioner that earlier the bank/secured creditor issued possession notice dated 04.09.2024, which was challenged by the petitioner in S.A.No.771 of 2024 before the Debts Recovery Tribunal. However, since it was submitted by the bank that in view of the clerical error in the possession notice dated 04.09.2024, a fresh possession notice under Section 13(4) has been issued on 30.11.2024, the SARFAESI appeal came to be closed.



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4. He further contended that when the possession notice was withdrawn, the bank filed a petition under Section 14 of the Act for securing possession and according to him, the proceedings are not maintainable. In view of the proceedings taken by the secured creditor, the petitioner challenges the measures taken under the SARFAESI proceedings.

5. Per contra, the learned counsel for the bank contended that the possession notice has been issued on 30.11.2024 under Section 13(4) of the Act and the petitioner, without filing an appeal under Section 17 of the Act, had preferred this writ petition, which is not maintainable.

6. He further submitted that the bank had already filed an application under Section 14 of the Act and the order for securing possession had been passed by the learned Chief Judicial Magistrate, Erode, on 27.03.2025. The petitioner had also challenged Section 14 order before the Debts Recovery Tribunal, Coimbatore and obtained an interim protection based on this writ petition. The present writ petition,



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after having filed statutory appeal under Section 17, is not maintainable.

7. Considered the rival submissions and perused the materials produced.

8. Admittedly, the petitioner is a partner of the borrower, 'M/s.Sun Enterprises', which had received financial assistance from the respondent bank / secured creditor to the tune of Rs.10 crores. The petitioner, being a partner of the borrower, had mortgaged her property in favour of the secured creditor, securing the loan availed by the partnership firm.

9. In view of the default committed, the loan account of the borrower was declared as non-performing asset and the bank issued notice under Section 13(2) of the Act on 14.06.2024 calling for repayment of the loan amount. On failure to make the payment within the time stipulated, the respondent bank issued the possession notice under Section 13(4) of the Act on 30.11.2024.



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10. Any person (including borrower), who is aggrieved by any of the measures taken by the secured creditor under Section 13(4) of the Act, may file an application before the Debts Recovery Tribunal under Section 17 of the Act. Learned counsel contends that since the earlier Section 13(4) notice was issued on 04.09.2024, which was challenged by her in S.A.No.771 of 2024, but however, since there was a clerical error, the bank withdrew that notice and issued the present notice under Section 13(4) on 30.11.2024.

11. Admittedly fresh notice under Section 13(4) has now been issued on 30.11.2024. The petitioner, if aggrieved, has to necessarily file an application under Section 17 of the Act by availing the alternative statutory appeal remedy. Further, it is to be noted that the bank had filed petition under Section 14 of the Act and the learned Chief Judicial Magistrate, Erode, by order dated 27.03.2025, passed orders for securing possession. It is not disputed by the petitioner that she has already challenged the Section 14 order by filing an appeal before the Debts Recovery Tribunal, Coimbatore.



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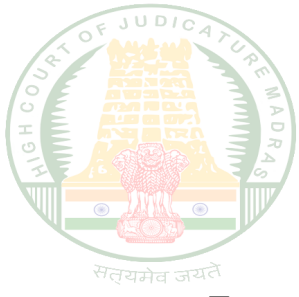
12. When the petitioner has already availed the statutory remedy by filing an appeal under Section 17 of the Act, it is for the petitioner to agitate all her grievances in the pending appeal. Accordingly, the present writ petition filed challenging the 13(2) notice dated 14.06.2024 and Section 13(4) notice dated 30.11.2024 issued by the bank is misconceived and is not maintainable.

13. Since the petitioner had already availed the remedy before the Debts Recovery Tribunal, it is open to her to agitate all the issues in the pending appeal. Accordingly, this writ petition stands dismissed. There shall be no order as to costs. The interim applications stand closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)
06.10.2025

Index : Yes/No
Neutral Citation : Yes/No

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