



W.P.(MD) No.1103 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.02.2025

CORAM:

THE HONOURABLE **MR.K.R.SHRIRAM**, CHIEF JUSTICE
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) No.1103 of 2024
and
W.M.P.(MD)No.1135 of 2024

P.Syed Ahamed Kabir

... Petitioner

-VS-

1.The Authorized Officer,
Canara Bank,
Asset Recovery Management Branch,
Circle Office (Canara Bank), 1st Floor,
St.Mary's Campus, East Veli Street,
Madurai-625 001.

2.The Branch Manager,
Canara Bank, Cumbum Branch,
Cumbum-625 516, Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the possession notice dated 05.12.2023 and the consequential auction sale notice dated 16.12.2023 fixing the date of sale on 23.01.2024 for the subject properties, issued by the 1st respondent under Section 13(4) of SARFAESI Act, 2002 and quash the same.

For Petitioner : Mr.S.Suresh

For Respondents : Mr.R.Anandraj, Standing Counsel



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ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Counsel for petitioner states that petitioner has complied with the conditional order passed by this Court on 22.01.2024 and paid a sum of Rs.20 lakhs. This was in response to the query from the Court as to how this petition is maintainable and why not petitioner approach the Debts Recovery Tribunal for the same relief claimed herein.

2.We find that admittedly, on 20.12.2022 petitioner received demand notice under Section 13(2) of SARFAESI Act, claiming a sum of Rs.90,74,498.29/- (Rs.91 lakhs approximate). Petition has been lodged only on or about 8th January 2024 challenging the auction notice. Petitioner says that he has paid a sum of Rs.20 lakhs in compliance with the conditional order, but thereafter, no amount has been paid.

3.In our view, if petitioner was a *bona fide* person, then, certainly, he would have paid further amounts between 22.01.2024 till date, which petitioner has not done. Therefore, this is not the case fit for exercising our discretionary jurisdiction under Article 226 of the Constitution of India.



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4. Petition stands dismissed accordingly. Petitioner may, however, approach the Debts Recovery Tribunal. If an application is filed within a period of two weeks from today, delay, if any, shall be deemed to have been condoned. There shall be no order as to costs. Consequently, interim application stands dismissed.

[K.R.SHRIRAM., C.J.] & [V.LAKSHMINARAYANAN, J.]

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NCC : Yes / No

Index : Yes / No

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THE HON'BLE CHIEF JUSTICE
and
V.LAKSHMINARAYANAN, J.

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