



W.P.(MD) No.21752 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2025

CORAM:

**THE HONOURABLE MR.MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.P.(MD) No.21752 of 2023

M.Velanganni
W/o. Murugan,
Annan Nagar,
Endapuli Pudukottai,
Periyakulam Taluk - 625 606.

... Petitioner

Vs.

1. The Authorized Officer
Canara Bank,
Periyakulam.

2. The Branch Manager
Canara Bank,
Periyakulam.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a writ of Mandamus, directing the respondents to return petitioners



W.P.(MD) No.21752 of 2023

WEB COPY

advance money of Rs.4,50,000/- with future interest, by disposing
petitioners representation dated 12.05.2023

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.C.Deepak

ORDER

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

Challenge to the action of the respondents in withholding the earnest money and not returning the same by treating it as forfeited is under challenge in this writ petition.

2. The learned counsel for the petitioner, upon being asked as to why the petitioner cannot approach the Debts Recovery Tribunal, it is submitted that there is no order and, therefore, the petitioner may not be in a position to approach the DRT by filing an application under Section 17 of the SARFAESI Act.



W.P.(MD) No.21752 of 2023

WEB COPY

3. The submission of the learned counsel for the petitioner cannot be accepted in view of the authoritative pronouncement of the Hon'ble Supreme Court in the case of *Agarwal Tracom Private Limited Vs. Punjab National Bank and Others*¹, wherein it has been clearly held that, in view of Section 17(2) of the Act and Rule 9(5) of the Security Interest Enforcement Rules, 2002, an action of secured creditor in forfeiting the deposit made by the auction-purchaser is a part of the measures taken by the secured creditor under Section 13(4) of the Act. Moreover, it has also been held that the expression "*any of the measures referred to in Section 13(4) taken by secured creditor or his authorised officer*" in Section 17(1) of the Act would include all actions taken by the secured creditor under the Rules which relate to the measures specified in Section 13(4) of the Act. Moreover, the decision also clearly holds that the auction-purchaser falls within the expression "*any person*" as specified under Section 17(1) of the Act.

On such consideration, their Lordships in the Supreme Court have categorically held that the auction-purchaser is entitled to challenge the action of the secured creditor before the DRT by filing an application under

¹ (2018) 1 SCC 626



W.P.(MD) No.21752 of 2023

WEB COPY

Section 17(1) of the SARFAESI Act.

4. On the face of existence of the alternative remedy, we are not inclined to entertain this petition without insisting on exhaustion of alternative remedy, when the action of the respondent/bank is not under challenge on the ground of absence of jurisdiction, violation of principles of natural justice or *mala-fide*.

5. The submission of the learned counsel for the petitioner that he has not received any order of forfeiture, cannot be accepted. The action of forfeiture takes place in terms of the conditions incorporated in the sale notice, in the event of failure to deposit the balance of the amount.

In any case, learned counsel for the respondents also states that the earnest money deposit, on account of failure to pay the balance amount after the auction was finalised, stands forfeited.

6. In view of above consideration, we are not inclined to grant any relief and hold this petition is not maintainable.



W.P.(MD) No.21752 of 2023

WEB COPY

7. Writ petition is dismissed as not maintainable, though without expressing any opinion on merits.

8. It is open for the petitioner to approach the DRT for the reliefs claimed in the petition. There shall be no order as to costs. Consequently, connected interim applications are closed.

[MANINDRA MOHAN SHRIVASTAVA, C.J.] [R.POORNIMA, J.]

14.10.2025

NCC : Yes / No

Index : Yes / No

RM



W.P.(MD) No.21752 of 2023

WEB COPY

To:

1. The Authorized Officer
Canara Bank,
Periyakulam.
2. The Branch Manager
Canara Bank,
Periyakulam.



WEB COPY



W.P.(MD) No.21752 of 2023

THE HON'BLE CHIEF JUSTICE
and
R.POORNIMA, J.

RM

W.P.(MD) No.21752 of 2023

14.10.2025