



W.P.No.3944 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.3944 of 2024

Sumathy
W/o. Manoharan
Residing At Flat B No. 54
Virgo Tower, Ground Floor
Elango Nagar, 1st Main Road
Virugambakkam, Chennai - 600 092.

Petitioner(s)

Vs

The Authorised Officer,
M/s. Union Bank Of India
Asset Recovery Branch
No.9, Elcanso Complex
Casa Major Road, Egmore
Chennai - 600 008.

Respondent(s)

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records of the impugned Letter bearing Ref. No. ARB:455/2022-2023 dated 26.10.2022 issued by the Respondent and to quash the same and further direct the respondent to refund the amount paid by the petitioner (i.e) auction purchaser a sum of Rs.4,41,000/- (Rupees Four Lakhs and Fourty one Thousand only) with interest.

For Petitioner(s): Mr.J.Dev Eshwaar

For Respondent(s): Mr.N.Venkateswaran

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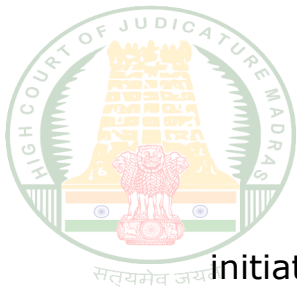
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ORDER
(Order of the Court was made by
the Hon'ble Chief Justice)

This writ petition under Article 226 of the Constitution of India has been filed by petitioner challenging the letter of respondent forfeiting Rs.4,41,000/- paid by her towards 10% of the bid amount and consequential direction for return of the same.

2. Petitioner is the successful bidder in the e-auction and paid 10% of the bid amount. However, she could not pay 25% of the bid amount within time and therefore, by the impugned order, the amount deposited by her was forfeited by respondent bank as per the terms and conditions of auction sale.

3. It is not in dispute that proceedings were initiated by respondent bank invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Therefore, in our considered opinion, petitioner has to approach the Debts Recovery Tribunal assailing the measures



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initiated by respondent bank, including forfeiture of the amount deposited by her.

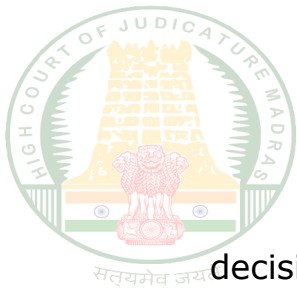
4. An identical issue was considered by the Supreme Court in *Agarwal Tracom (P) Ltd. v. Punjab National Bank*¹. For ease of reference, the issue framed by the Supreme Court is reproduced hereunder:

*"17. The short question that arises for consideration in this appeal is **whether the High Court was justified in holding that the remedy of the appellant (auction-purchaser) lies in challenging the action of the secured creditor (PNB) in forfeiting the deposit by filing an application under Section 17 of the Sarfaesi Act before the DRT or the remedy of the auction-purchaser is in filing the writ petition under Articles 226/227 of the Constitution of India to examine the legality of such action?**"*

[emphasis supplied]

5. After referring to various provisions of the SARFAESI Act and the Rules framed thereunder, the Supreme Court, in the said

¹ (2018) 1 SCC 626



decision, emphatically held thus:

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"28. We also notice that **Rule 9(5)** confers **express power on the secured creditor to forfeit the deposit made by the auction-purchaser in case the auction-purchaser commits any default in paying instalment of sale money to the secured creditor. Such action taken by the secured creditor is, in our opinion, a part of the measures specified in Section 13(4) and, therefore, it is regarded as a measure taken under Section 13(4) read with Rule 9(5).** In our view, the measures taken under Section 13(4) commence with any of the action taken in clauses (a) to (d) and end with measures specified in Rule 9.

29. In our view, therefore, **the expression "any of the measures referred to in Section 13(4) taken by secured creditor or his authorised officer" in Section 17(1) would include all actions taken by the secured creditor under the Rules** which relate to the measures specified in Section 13(4).

30. **The auction-purchaser (appellant herein) is**



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one such person, who is aggrieved by the action of the secured creditor in forfeiting their money. The appellant, therefore, falls within the expression "any person" as specified under Section 17(1) and hence is entitled to challenge the action of the secured creditor (PNB) before the DRT by filing an application under Section 17(1) of the Sarfaesi Act.

33. In the light of the foregoing discussion, we are of the considered opinion that the writ court as also the appellate court were justified in dismissing the appellant's writ petition on the ground of availability of alternative statutory remedy of filing an application under Section 17(1) of the Sarfaesi Act before the Tribunal concerned to challenge the action of PNB in forfeiting the appellant's deposit under Rule 9(5). ...

34. The appellant is, accordingly, granted liberty to file an application before the Tribunal concerned (DRT) under Section 17(1) of the Sarfaesi Act, which has jurisdiction to entertain such application within 45 days from the date of this order. In case, if the appellant files any such application, the Tribunal



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shall decide the same on its merits in accordance with law uninfluenced by any of the observations made by this Court and the High Court in the impugned judgment. ... "

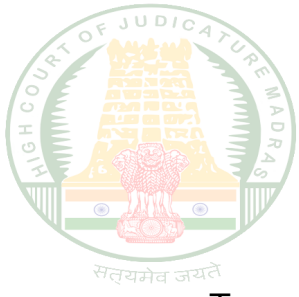
[emphasis supplied]

6. In the light of the authoritative pronouncement of the Supreme Court in the aforesaid decision, which squarely answers the issue raised in the present writ petition, we dismiss the writ petition with liberty to petitioner to approach the Debts Recovery Tribunal. If petitioner approaches the Debts Recovery Tribunal, the period of limitation shall be reckoned by excluding the period spent by petitioner in this court for pursuing the writ petition. There shall be no order as to costs.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
30.06.2026

Index : Yes/No
Neutral Citation : Yes/No

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To
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Asset Recovery Branch
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THE HON'BLE CHIEF JUSTICE
AND
G.ARUL MURUGAN,J.

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