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.10124 of 2024
&
W.M.P.No.11165 of 2024

E.Savitha (Minor)
D/o.Egambaram
V.Sujatha, the mother and Natural
Guardian of her minor daughter
E.Savitha,
No. 91, Main Road,
Kavarapalayam, Avadi
Thiruvallur District -600054.

Petitioner(s)

Vs

The Authorised Officer & The Chief
Manager,
Bank Of Maharashtra
Asset And Recovery Branch
T.Nagar, Chennai -17.

Respondent(s)

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the Respondents order letter No.AX76/Legal/2023-24 dated 03.11.2023 and quash the same, and consequently direct the respondent to return the initial amount of Rs. 4,33,750/-which is the 25% of the respondent to return the initial amount of Rs. 17,35,000/- paid for purchase of the property viz., No.3B, Mettu Street, Extn., Vilingiambakkam Village, Avadi Taluk, Thiruvallur District.

For Petitioner(s): Mr.T.Vijayshankar

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 rejecting the request of petitioner to return Rs.4,33,750/- paid by her towards 25% of the bid amount and consequential direction for return of the same.

2. Petitioner is the successful bidder in the e-auction and paid 25% of the bid amount. She could not pay the balance 75% of the bid amount on time. Therefore, she made representations seeking extension of time for paying the balance amount. As there was no response, she requested for return of Rs.4,33,750/- paid by her,

and the same was rejected by respondent by the impugned order.

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 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***

[1] *(2018) 1 SCC 626*

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 decision, emphatically held thus:

> *"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 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 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.

7. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

The Authorised Officer & The Chief Manager,
Bank Of Maharashtra
Asset And Recovery Branch
T.Nagar, Chennai -17.

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

(kpl)

W.P.No.10124 of 2024

30.06.2026