



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P. (MD) No. 2376 of 2015

and

M.P. (MD) Nos. 1 and 2 of 2015

N.Karnan

... Petitioner

Vs.

1. The Secretary to Government,
Union of India,
Ministry of Finance,
Jeevan Deep Building,
Parliament Street,
New Delhi - 1.
2. The Assistant General Manager,
Reserve Bank of India,
Main Building, Post Box No. 901,
Sahid Bhagatsingh Road,
Mumbai 400 001.
3. The Secretary to Government,
Finance Department,
Secretariat,
Fort St. George, Chennai.
4. The Authorized officer,
L & T Housing Finance Ltd.,
72, II Floor, ADR Towers,
Kalavasal, Madurai 16.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned possession notice issued under Section 13(12) of SARFAESI Act, r/w Rule 8 of the Security Interest Rules, 2002 dated 21.01.2015 issued by the fourth respondent herein and quash the same as illegal and consequently, direct the respondents 1 to 3 to revise the rate of interest in consonance with RBI Regulations and provide necessary time period preferably 6 months to repay the balance loan amount as a one time measure.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.M.Alaguthevan, Spl.G.P.for R1 to 3
Mr.Pala Ramasamy for R4



O R D E R

(Order of this Court was made by S.TAMILVANAN,J.)

The Writ petition has been filed seeking an order in the nature of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice issued under Section 13 (2) of SARFAESI Act r/w Rule 8(1) of the Security Interest (Enforcement) Rules, 2002 dated 21.01.2015 by the fourth respondent herein and quash the same as illegal and consequently, direct the respondents 1 to 3 to revise the rate of interest in consonance with RBI Regulations and provide necessary time period preferably 6 months to repay the balance loan amount as a one time measure.

2.Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

3.Learned counsel appearing for the petitioner submitted that the fourth respondent has fixed unreasonable interest and does not provide opportunity for one time settlement. However, the same is disputed by the learned counsel appearing for the fourth respondent.

4.It is not in dispute that under the statues, alternative remedy is available. Accordingly, the petitioner can approach the Debts Recovery Tribunal and challenge the impugned order and raise the defence with regard to the rate of interest and also for one time settlement, if any adverse is passed by Debts Recovery Tribunal, he is entitled to challenge the same before DRAT, for which, he cannot maintain separately a Writ petition under Article 226 of the Constitution of India.

5.On the aforesaid facts and circumstances and also considering the submissions made by both sides, we find it just and reasonable to dismiss the Writ petition holding that the same has been filed without jurisdiction.

6.However, we make it clear that it is open to the petitioner to approach the concerned authorities and express his legal grievance if any and also try for one time settlement.

7.With the above observation this Writ petition is dismissed. No costs. Consequently, connected M.Ps.are closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
Union of India,
Ministry of Finance,
Neevan Deep Building,
Parliament Street,
New Delhi - 1.



2.The Assistant General Manager,
Reserve Bank of India,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road,
Mumbai 400 001.

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3.The Secretary to Government,
Finance Department,
Secretariat,
Fort St.George, Chennai.

4.The Authorized officer,
L & T Housing Finance Ltd.,
72, II Floor, ADR Towers,
Kalavasal, Madurai 16.

+1cc to special government pleader in SR.No.9009/2015

+1cc to Mr.Pala.Ramasamy, Advocate in SR.No.8629/2015

sm:08.04.2015:3P/7C

W.P. (MD) No.2376 of 2015
24.02.2015