

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M. VENUGOPAL

W.P. No. 11721 of 2016

Amudha Meenakshi

Petitioner

vs.

1. The Registrar,
Debt Recovery Tribunal,
Coimbatore.

2. The Authorised Officer,
Panjab and Sind Bank,
No.827 Oppanakara Street,
Coimbatore 641 001.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records of the first respondent in Docket Order dated 11.03.2016 and quash the same and consequently direct the first respondent to entertain the application dated 18.02.2016 filed by the petitioner under Section 17 of the SARFAESI Act and deal it in accordance to law.

For petitioner : Mr. P. Saravana Sowmiyan

For respondents : ----

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Notice to second respondent is dispensed with at this stage, inasmuch as no adverse order is passed against his in this writ petition. Heard the learned counsel for the petitioner.

2. This writ petition is filed seeking to quash the order of the first respondent/ Tribunal dated 11 March, 2016 and consequently direct the first respondent/Tribunal to entertain the application dated 18.02.2016 filed by the petitioner under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for

short "SARFAESI Act") and dispose of the same in accordance with law.

3. The petitioner's application filed under Section 17 of the SARFAESI Act, for condonation of delay of 45 days has been rejected by the first respondent/Tribunal. Feeling aggrieved, the petitioner has come up with the instant writ petition seeking the aforestated relief.

4. The issue involved in this writ petition came up before a Division Bench, wherein, one of us (Satish K. Agnihotri, J.) was a Member, the Division Bench, considering all aspects of the matter, disposed of the writ petition being W.P. No. 10224 of 2016 on 21 March, 2016 in the following terms:

"In the case on hand, the Registry of the Tribunal has declined to register the case at the threshold without placing the case for adjudication before the Tribunal on the question of maintainability of the application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act"). The registration of the application filed under Section 17 of the SARFAESI Act cannot be denied. It is for the Tribunal to consider the issue of power of the Tribunal to condone the delay. Sub-section (7) of Section 17 of the SARFAESI Act provides that the Debts Recovery Tribunal shall, as far as may be, dispose of the application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (herein-after referred to as "RDDBFI Act") and the rules made thereunder. Section 24 of the RDDBFI Act provides for applicability of the provisions of the Limitation Act. It is for the Tribunal to consider as to whether the application is maintainable or not, not for the Registry of the Tribunal. Accordingly, the order of the Registry, declining to register the application is set aside. A direction is issued to the Registry of the Tribunal to register the same and place before the Tribunal to consider the application for condonation of delay on its own merit and in accordance with law."

5. Inasmuch as the issue involved in the instant writ petition has been decided in the aforestated decision, this writ petition is also disposed of on the same terms. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

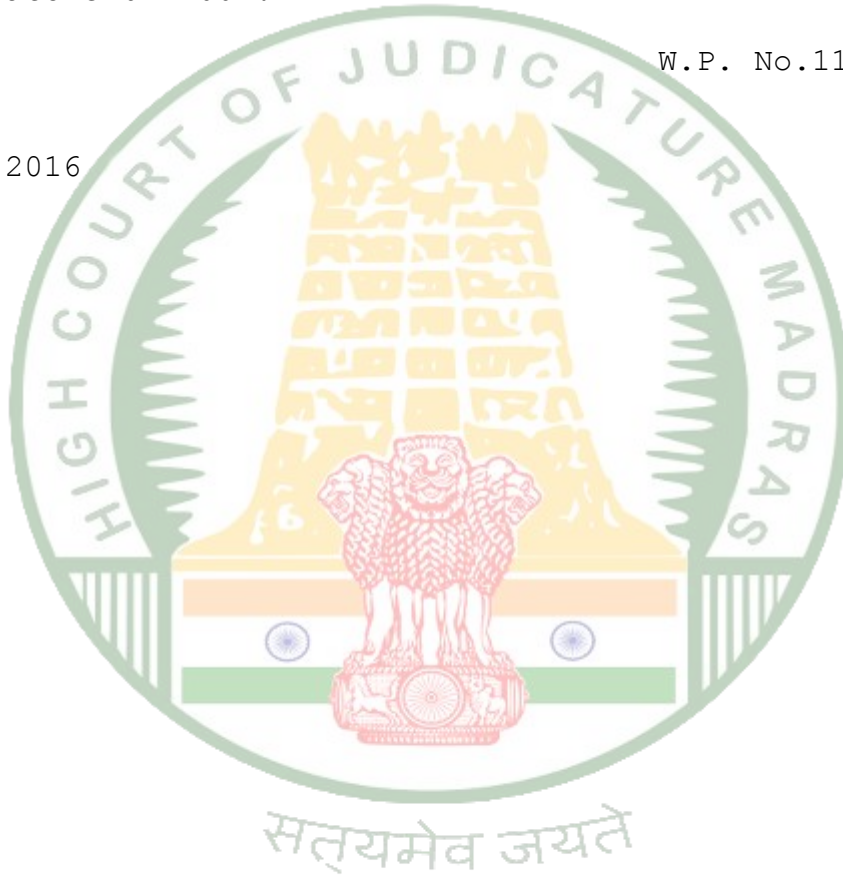
Assistant Registrar (CS-IV)

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To

1. The Registrar,
Debt Recovery Tribunal,
Coimbatore.
2. The Authorised Officer,
Panjab and Sind Bank,
No.827 Oppanakara Street,
Coimbatore 641 001.

W.P. No.11721 of 2016

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