

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 22.11.2016

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN**and****THE HONOURABLE MRS. JUSTICE J.NISHA BANU****C.R.P. (MD) No.2116 of 2016**

C.Ashok Kumar

... Petitioner/Petitioner/Appellant

Vs.

1.The Authorized Officer,
Indian Overseas Bank,
Thillai Nagar Branch,
Tiruchirappalli,
Tiruchirappalli District.

2.R.Kannan

3.K.Sumathi

.. Respondents/Respondents/
Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the proceedings in I.A.No.1790 of 2016 in S.A.S.R.No.5333/2016 on the file of the Debts Recovery Tribunal at Madurai, dated 29.08.2016.

For Appellant

:Mr.V.Baskaran

For Respondents

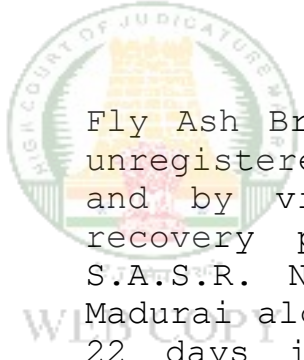
: Mr.N.Dilip Kumar
for R.1

ORDER

(Order of this Court was delivered by M.SATHYANARAYANAN, J.)

By consent, this Civil Revision Petition is taken up for final disposal.

2. The petitioner and his wife claimed to have entered into an <https://hcservices.ecourts.gov.in/hcservices/> unregistered sale agreement with the borrowers, viz., M/s Lotus



Fly Ash Bricks represented by its partners and subsequently, the unregistered sale deed was executed in their favour on 18.08.2014 and by virtue of that right, challenging the initiation of recovery proceedings, they filed the SARFAESI application in S.A.S.R. No.5333 of 2016 before the Debts Recovery Tribunal at Madurai along with I.A.No.1790 of 2016 for condonation of delay of 22 days in filing the said application. The Debts Recovery Tribunal, Madurai, vide order dated 29.08.2016 has rejected the said application on the ground of maintainability. Challenging the legality of the same, the present Civil Revision Petition is filed.

3. The learned Counsel appearing for the petitioner would submit that in the light of the judgments referred by the Honourable Supreme Court of India in **Baleshwar Dayal Jaiswal Vs. Bank of India & Others** reported in **2015(8) SCALE 509 = 2016-2-LW 97 SC**, the Tribunal is having power to condone the delay and therefore, prays for appropriate order.

4. Per contra, the learned Standing Counsel appearing for the first respondent Bank would contend that admittedly the petitioner claims right as an unregistered agreement holder and the remedy open to him if any is to invoke jurisdiction of the Appellate Tribunal under Section 18 of the SARFAESI Act and prays for dismissal of the petition.

5. This Court heard the rival submissions made by both sides and also perused the materials placed before this Court.

6. The Honourable Supreme Court of India in the above cited decision laid down a proposition that the application for condonation of delay is maintainable before the Debts Recovery Tribunal / the Debts Recovery Appellate Tribunal and the light of the said decision, the petitioner is granted liberty to approach the Debts Recovery Appellate Tribunal by invoking the provision under Section 18 of the SARFAESI Act challenging the legality of the impugned order, which is the subject matter challenged in this Civil Revision Petition.

7. In the result, this Civil Revision Petition is dismissed, granting liberty to the petitioner to avail alternative remedy under Section 18 of the SARFAESI Act before the Debts Recovery Appellate Tribunal at Chennai. There shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

/True Copy/



1. The Debts Recovery Tribunal, Madurai.
2. The Debts Recovery Appellate Tribunal, Chennai.

+1CC to Mr.N.Dilipkumar, Advocate Sr.No.71381
+1CC to Mr.V.Baskaran, Advocate Sr.No.72247

GJM/SS2/SAR-3-29.11.16-3p-5C

C.R.P. (MD) No.2116 of 2016
22.11.2016