

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.09.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. No.3763 of 2018

and

W.M.P.No.4586 of 2018

P.Krishnan

..Petitioner

Vs.

1.The Authorized Officer,
State Bank of India,
Kethanur Branch, Kethanur,
Udumelpet Main Road,
Palladam Taluk, Tirupur District.

2.K.Karthikeyan

3.The Debts Recovery Tribunal,
Coimbatore.
Rep.by Presiding Officer

..Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records relating to the order date 29.12.2017 made in S.A.(SR).NO.9742 of 2017 on the file of Debts Recovery Tribunal, Coimbatore and to quash the same and consequently issue directions to the 3rd respondent to take up the application in S.A.(SR).No.9742 of 2017, number the same and dispose of the same on merits.

For Petitioner : Mr.S.Balaji

For Respondents : Mrs.S.R.Sumathy (R1)

Mr.N.Elumalai (R2)
R3 - Tribunal

O R D E R

(Order of the Court made by M.DURAIWAMY,J.)

The above Writ Petition has been filed by the petitioner to issue a Writ of certiorarified mandamus to call for the

records relating to the order date 29.12.2017 made in S.A. (SR).NO.9742 of 2017 on the file of the Debts Recovery Tribunal, Coimbatore and to quash the same and to consequently issue directions to the 3rd respondent to take up the application in S.A.(SR).No.9742 of 2017, number the same and dispose of the same on merits.

2.Challenging the rejection of S.A.(SR).No.9742 of 2017 on the ground of limitation, the petitioner has filed the above Writ Petition.

3.The petitioner has filed the appeal under Section 17(1) of the SARFAESI Act with a delay of 9 days and the Debts Recovery Tribunal, Coimbatore declined to number the S.A./I.A. for the reason that filing of the appeal under Section 17(1) is barred by limitation. When the Debts Recovery Tribunal, Coimbatore has rejected the appeal on the ground of limitation, the remedy open to the petitioner is to challenge the said order before the Debt Recovery Appellate Tribunal under Section 18 of the SARFAESI Act. Without exhausting the appellate remedy available to the petitioner, he has challenged the order passed by the Debts Recovery Tribunal in this Writ Petition. Therefore, the remedy available to the petitioner is only before the Debt Recovery Appellate Tribunal.

4.In this view of the matter, we are not inclined to entertain the Writ Petition. However, it is open to the petitioner to challenge the order passed by the Debts Recovery Tribunal, Coimbatore in S.A.(SR).No.9742 of 2017 before the Debt Recovery Appellate Tribunal in accordance with the provisions of the SARFAESI Act.

5.In the result, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

va

Sd/-
Assistant Registrar (CS-CCC)

// True Copy//

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Sub Assistant Registrar

To

1.The Authorized Officer,
State Bank of India,
Kethanur Branch, Kethanur,
Udumelpet Main Road,
Palladam Taluk, Tirupur District.

2.The Debts Recovery Tribunal,
Coimbatore.

<https://hcservices.ecourts.gov.in/hcservices/>

+ 1 cc to Mr.N.Elumalai, Advocate Sr 66527

+ 1 cc to Mrs.S.R.Sumathy, Advocate Sr 66392

+ 1 cc to Mr.R.Nandhakumar, Advocate Sr 66149

KR/15/10/18

W.P.No.3763 of 2018
and
W.M.P.No.4586 of 2018



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