

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.09.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. No.20785 of 2018

and

W.M.P.No.24414 of 2018

V.Bhuvan Kumar
rep by D.Sathish Babu Power of Attorney ... Petitioner

Vs.

1.The Authorized Officer,
Housing Development Finance
Corporation Limited,
rep by Jeyakumar,
II Floor, IT Centre,
No.760, Anna Salai,
Chennai - 600 002.

2.Saravanan ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari calling for the records of the Sale Certificate issued by the 1st respondent in favour of the 2nd respondent dated 11.07.2017 and to quash the same as illegal, null and void.

For Petitioner : Mr.P.Subramani
For Respondents : Mr.K.J.Parthasarathy (R1)
R2 - not ready in notice

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 certiorari to call for the records in respect of the Sale Certificate issued by the 1st respondent in favour of the 2nd respondent dated 11.07.2017 and to quash the same.

2.Challenging the issuance of the Sale Certificate dated 11.07.2017 in favour of the 2nd respondent, the petitioner has filed the Writ Petition without approaching the Debts Recovery Tribunal. The petitioner should have approached the Debts

Recovery Tribunal under Section 17 of the SARFAESI Act challenging the Sale Certificate dated 11.07.2017.

3.The Hon'ble Supreme Court of India in the judgments reported in (2018) 3 Supreme Court Cases 85 [Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C.] and (2018) 1 Supreme Court Cases 626 [Agarwal Tracom Private Limited Vs. Punjab National Bank and others] held that the aggrieved party cannot challenge the SARFAESI proceedings directly by filing a Writ Petition under Article 226 of the Constitution of India without exhausting the remedy available to them before the Debts Recovery Tribunal.

4.The ratio laid down by the Apex Court in the above referred judgments is applicable to the present case.

5.Since the petitioner has filed the Writ Petition without exhausting the remedy available to him under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal, the Writ Petition cannot be entertained. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

va

Sd/-

Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

To

1.The Authorized Officer,
Housing Development Finance
Corporation Limited,
II Floor, IT Centre,
No.760, Anna Salai,
Chennai - 600 002.

+ 1 CC TO MR.K.J.PARTHASARATHY, ADVOCATE SR 65905

KR/10/10/18

W.P.No.20785 of 2018
and
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