IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

C.R.P.(PD) Nos.2777 and 2778 of 2018
and C.M.P.No.16247 of 2018

C.R.P.(PD) No.2777 of 2018:

K.Narasimhan .. Petitioner

Vs.

1.Oriental Bank of Commerce,
Spencer Plaza Branch,
Anna Salai,
Chennai-600 002.

2.V.Ganesh

3.Super Shrimps Farms Private Limited,
10, Third Street,
Gopalapuram,
Chennai-600 086.

4.M/s.Global Trade Insurance Management Private Limited,
150, Cecil Street,
HEX 10-01, Wing On Life Building,
Singapore-0106.

5.The Hongkong & Shanghai Banking Corporation Limited,
Imports and Exports : 21, Collyer Quay,
04-00, Hongkong Bank Building,
Singapore-0104.

6.The Hongkong & Shanghai Banking Corporation Limited,
Mumbai
52/60, M.G. Road,
Mumbai-400 001. .. Respondents

C.R.P.(PD) No.2778 of 2018:

K.Narasimhan .. Petitioner

Vs.

Oriental Bank of Commerce,
Spencer Plaza Branch,
Anna Salai,
Chennai-600 002. .. Respondent

Civil Revision Petition No.2777 of 2018 filed under Article 227 of the Constitution of India against the order dated 24.08.2018 passed in I.A.No.564 of 2017 in I.A.No.275 of 2018 in T.A.No.19 of 2015 on the file of the Debts Recovery Tribunal-II, Chennai.

Civil Revision Petition No.2778 of 2018 filed under Article 227 of the Constitution of India against the order dated 24.08.2018 passed in I.A.No.129 of 2018 in T.A.No.19 of 2015 on the file of the Debts Recovery Tribunal-II, Chennai.

For Petitioner : Mr.T.R.Rajagopalan
Senior Counsel
for M/s.K.Bhanumathi

For Respondents : Mr.E.Venkatesh Babu
for 1st respondent in
CRP.No.2777 of 2018
and respondent in
CRP.No.2778 of 2018

COMMON ORDER

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

Challenging the orders passed in I.A.No.564 of 2018 in I.A.No.275 of 2018 and I.A.No.129 of 2018 in T.A.No.19 of 2015 on the file of the Debts Recovery Tribunal-II, Chennai, the second defendant has filed the above Civil Revision Petitions.

2. I.A.No.564 of 2018 in I.A.No.275 of 2018 has been filed by the petitioner under Section 22(2)(h) of RDDB & FI Act to restore I.A.No.275 of 2018, which was dismissed for non-prosecution on 13.7.2018.

3. I.A.No.129 of 2018 has been filed by the petitioner to direct the first respondent Bank to furnish information sought for by the petitioner.

4. The Debts Recovery Tribunal-II, Chennai, by separate order dated 24.8.2018, dismissed both the applications, against which, the petitioner has filed the above Civil Revision Petitions.

5. It is settled position that as against the order passed by the Debts Recovery Tribunal, the petitioner has got alternative remedy by way of appeal before the Debt Recovery Appellate Tribunal under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act'). Without exhausting the alternative remedy, the petitioner has filed the above Civil Revision Petitions under Article 227 of the Constitution of India.

6. 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 Civil Revision Petition under Article 227 of the Constitution of India or a Writ Petition under Article 226 of the Constitution of India without exhausting the remedy available to them before the Debts Recovery Tribunal and Debt Recovery Appellate Tribunal, as the case may be.

7. The ratio laid down by the Apex Court squarely applies to the facts and circumstances of the present case.

8. In view of the same, we are not inclined to entertain the Civil Revision Petitions.

9. The learned Senior Counsel appearing for the petitioner submitted that the petitioner may be given liberty to approach the Debt Recovery Appellate Tribunal within a period of ten days time for challenging the orders passed by the Debts Recovery Tribunal-II, Chennai.

10. Mr.E.Venkatesh Babu, learned counsel takes notice on behalf of the first respondent Bank and submitted that the first respondent Bank has no objection for granting ten days time to the petitioner to approach the Debt Recovery Appellate Tribunal. The learned counsel also submitted that the first respondent Bank would maintain status quo till such time.

11. In view of the submissions made by the learned counsel on either side, while dismissing the Civil Revision Petitions, we grant liberty to the petitioner to approach the Debt Recovery Appellate Tribunal under Section 18 of the SARFAESI Act within a period of ten days from today. The first respondent Bank is directed to maintain status quo for a period of ten days from today.

12. With these observations, the Civil Revision Petitions are dismissed. No costs. Consequently, C.M.P.No.16247 of 2018 is closed.

Sd/-
Assistant Registrar(CSviii)

//True Copy//

Sub Assistant Registrar

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To

The Oriental Bank of Commerce,
Spencer Plaza Branch,
Anna Salai, Chennai-600 002.

+2cc toM/s.K.Bhanumathi , Advocate SR.No.62857,62858

C.R.P.(PD) Nos.2777 and 2778 of 2018

ASK(11/09/2018)