

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM :

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

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.23140 of 2018

and W.M.P.Nos.27035,27036, and 27037 of 2018

1.K.R.Ramachandran
2.K.R.Suresh

.. Petitioners

Vs.

1.The Chief Officer,
UCO Bank,
Regional Office,
Vijay Towers (First Floor)
No.22, Father Randy Street,
R.S.Puram, Coimbatore.

2.The Chief Manager,
UCO Bank,
Coimbatore Main Branch,
Sri Murugan Towers,
No.1524/1287, Trichy Road,
Coimbatore - 641 018.

3.The Authorised Officer,
UCO Bank,
Coimbatore Main Branch,
Sri Murugan Towers,
No.1524/1287, Trichy Road,
Coimbatore - 641 018.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the third respondent pertaining to his E-Auction sale notice dated 08.08.2018 published in "The New Indian Express" dated 10.8.2018 and quash the same and consequently direct the respondents 1 and 2 to consider the petitioners request for one time settlement in light of the petitioners representation dated 27.8.2018 within a reasonable time frame as fixed by this Hon'ble Court.

For Petitioner : Mr.K.S.Karthik Raja

O R D E R
(Order of the Court made by M.DURAI SWAMY, J.)

The petitioner has filed the above writ petition to issue a Writ of Certiorari Mandamus to call for the records pertaining to the E-Auction sale notice dated 08.8.2018 published in The New Indian Express, dated 10.8.2018 and quash the same and consequently, direct the respondents 1 and 2 to consider the petitioners request for one time settlement in the light of their representation dated 27.8.2018 within a time frame.

2. The petitioners have filed the writ petition under Article 226 of the Constitution of India without exhausting alternative remedy available to them under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act') before the Debts Recovery Tribunal.

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 squarely applies to the present case.

5. It is brought to our notice that the petitioners have already filed W.P.No.7511 of 2017 before this Court, wherein, this Court had granted six months time to the petitioners to repay the loan amount. The learned counsel for the petitioners submitted that the petitioners have also filed an application seeking extension of time and the said application is also pending. It is always open to the petitioners to prosecute the said application before the concerned Bench in accordance with law.

6. In these circumstances, we are of the considered view that the above writ petition cannot be entertained for the reason that the petitioners have not exhausted the alternative remedy available to them before the Debts Recovery Tribunal. However, it is needless to say that it is open to the petitioners to challenge the E-Auction sale notice dated 08.8.2018 before the Debts Recovery Tribunal in accordance with

the provisions of the SARFAESI Act.

7. For the reasons stated above, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

+1cc to Mr.K.S.Karthik Raja, Advocate, S.R.No.61565.

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To

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NRI (co)

rrs 19/09/2018.

W.P.No.23140 of 2018

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