

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.DURAI SWAMY

W.P. No.23833 of 2018 and
W.M.P.Nos.27770 & 27771 of 2018

V.Iswarya .. Petitioner

v.

1. The District Magistrate
and District Collector
Kanchipuram

2. The Authorized Officer and
Chief Manager
Indian Bank, Vadapalani
Chennai - 600 026

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 13.11.2017 in RC.M3/21520/2017 on the file of the 1st respondent-the District Magistrate and District Collector, Kanchipuram and quash the same and further direct the 1st respondent-the District Magistrate and District Collector, Kanchipuram to restore the possession of the property viz., Plot No.67, Thirunageswaram Village, Sriperumbudur Taluk, 7, Bazar Street, Porur Main Road, Chennai - 69 to the petitioner.

For Petitioner : Mr.S.Giridharan

For Respondent : Mr.Kamalesh Kannan S.
Government Advocate - for R1

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

The above writ petition has been filed by the petitioner to issue a Writ of Certiorari Mandamus to call for the records pertaining to the order dated 13.11.2017 on the file of the 1st respondent-the District Magistrate and District Collector, Kanchipuram, to quash the same and further direct the 1st respondent to restore the possession of the property bearing Plot No.67, Thirunageswaram Village, Sriperumbudur Taluk, 7, Bazar Street, Porur Main Road, Chennai, to the petitioner.

2. Challenging the order passed by the 1st respondent-the District Collector, Kanchipuram, dated 13.11.2017, the petitioner has filed the above writ petition.

3. When the petitioner has got alternative remedy by way of an appeal before the Debts Recovery Tribunal under section 17 of the SARFAESI Act, without exhausting the said remedy, the petitioner has filed the Writ Petition under Article 226 of the Constitution.

4. 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 parties cannot challenge the proceedings initiated under the SARFAESI Act directly by filing a writ petition under Article 226 of the Constitution without exhausting the alternative remedy before the Debts Recovery Tribunal.

5. The ratio laid down in the above referred judgments is applicable to the present case. Hence, we are not inclined to entertain the writ petition. In such view of the matter, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

Rj

To

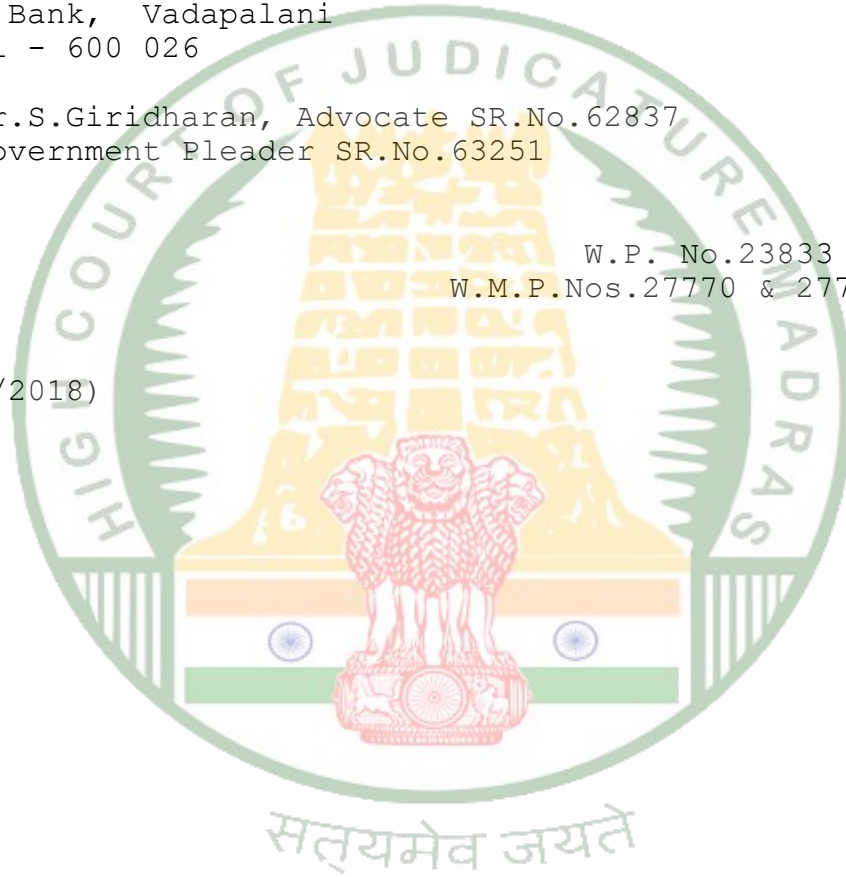
1. The District Magistrate
and District Collector
Kanchipuram
2. The Authorized Officer and
Chief Manager
Indian Bank, Vadapalani
Chennai - 600 026

+1cc to Mr.S.Giridharan, Advocate SR.No.62837

+1cc to Government Pleader SR.No.63251

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KS (CO)
RMP (20/09/2018)



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