

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.24543 of 2018

and

W.M.P.No.28569 of 2018

R.Chitra

.. Petitioner

vs

The Authorized Officer
Indian Bank
Zonal Office
15/1, Dhivya Towers 2nd Floor
Fort Main Road
Salem - 636001.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records in the impugned E auction sale notice dated 31.08.2018 under the SARFAESI Act 2002 on the file of respondent and quash the same as illegal to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

O R D E R

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

The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records in the impugned E auction sale notice dated 31.08.2018 under the SARFAESI Act on the file of respondent and to quash the same.

2. The petitioner has challenged the E auction sale notice dated 31.08.2018 under Article 226 of the Constitution of India.

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, the present Writ Petition cannot be entertained.

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 the Debts Recovery Tribunal.

5. The ratio laid down in the above referred judgments is applicable to the present case.

6. Since the petitioner has challenged the E auction sale notice dated 31.08.2018 without exhausting the alternative remedy available to her under section 17 of the SARFAESI Act, the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Rj

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

To

The Authorized Officer
Indian Bank, Zonal Office
15/1, Dhivya Towers 2nd Floor
Fort Main Road, Salem - 636001.

KR/16/10/18

सत्यमेव जयते

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