

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.26351 of 2018 and

W.M.P.No.30621 of 2018

1. M/s.Maruthi Paper Converters
No.32, Badrian Street
Chennai - 600 001
Rep. by its Partner Mr.Thirumalai
2. T.Bhagyalakshmi
3. T.Varun Kumar

... Petitioners

Vs.

1. The Authorized Officer
Standard Chartered Bank
No.19, Rajaji Salai, Parrys
Chennai - 600 001
2. P.Raja
- 3 R.Selva Asiad

Respondents

..

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, calling for the records pertaining to the order dated 28.02.2018 in S.A.SR.567 of 2018 on the file of DRT-II, Chennai and quash the same as illegal, arbitrary and without application of mind.

For Petitioner : Mr.S.Sethuraman

O R D E R

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

The petitioners have filed the above writ petition to issue a Writ of Certiorari to call for the records pertaining to the order dated 28.02.2018 in S.A.SR.No.567 of 2018 on the

file of the Debts Recovery Tribunal-II, Chennai and to quash the same.

2. By order dated 28.02.2018, the Debts Recovery Tribunal-II, Chennai, rejected the S.A.SR.No.567 of 2018 as not maintainable, since the same is barred by limitation. Challenging this order, the petitioners have filed the above writ petition under Article 226 of the Constitution of India.

3. When the petitioners have got alternative remedy by way of an appeal before the Debts Recovery Appellate Tribunal, they have filed the Writ Petition directly without exhausting the appeal remedy.

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 SARFAESI proceedings directly by filing a Writ Petition under Article 226 of the Constitution of India without exhausting the appeal remedy available to them.

5. The ratio laid down by the Hon'ble Supreme Court in the above referred judgments is applicable to the present case.

6. Since the petitioners have filed the Writ Petition without exhausting the appeal remedy, we are not inclined to entertain the Writ Petition. In view of the same, the Writ Petition is dismissed. It is open to the petitioners to challenge the order passed by the Debts Recovery Tribunal-II, Chennai, before the Debt Recovery Appellate Tribunal in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

Rj

To

1. The Authorized Officer
Standard Chartered Bank
No.19, Rajaji Salai, Parrys
Chennai - 600 001

2. The Debs Recovery Tribunal -II, Chennai.

+1cc to Mr.S.Sethuraman, Advocate SR.No.70091

+1cc to Mr.S.Sethuraman, Advocate SR.No.70181

W.P. No.26351 of 2018 and
W.M.P.No.30621 of 2018

PP (CO)

GMV (25/10/2018)



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