

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.26082 of 2018
and W.M.P.No.30311 of 2018

K.Kantha Rao

.. Petitioner

-vs-

1.The Regional Manager,
Indian Bank, Harbour Branch,
Chennai.

2.The Manager,
Indian Bank, Triplicane Branch,
Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records relevant to the Notice of Intended Sale including for E-Auction Mode dated 12.9.2018 and auctioning the residential home on 29.9.2018 Time 11 AM to 12 Noon passed by the 2nd respondent and quash the same.

For Petitioner : Mr.R.Chandrasekaran

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सत्यमेव जयते
O R D E R

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

The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records relating to the auction sale notice dated 12.09.2018 for auctioning the house property on 29.09.2018 and to quash the same.

2.Admittedly, the petitioner has filed the writ petition under Article 226 of the Constitution of India without approaching the Debts Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Securities Interest Act, 2002.

3.The Hon'ble Supreme Court of India in Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C., reported in (2018) 3 Supreme Court Cases 85 and in Agarwal Tracom Private Limited Vs. Punjab National Bank and others, reported in (2018) 1 Supreme Court Cases 626, 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. The ratio laid down by the Hon'ble Supreme Court squarely applies to the present case.

4.In these circumstances, we are not inclined to entertain this writ petition. Writ Petition is, accordingly, dismissed. No costs. Consequently, W.M.P.No.30311 of 2018 is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The Regional Manager,
Indian Bank, Harbour Branch,
Chennai.
- 2.The Manager,
Indian Bank, Triplicane Branch,
Chennai.

+1 cc to M/s.R.Chandrasekaran Advocate sr 68811

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W.P.No.26082 of 2018

mr(co)
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