

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.26393 of 2018 and
W.M.P.Nos.30817, 30818 & 30823 of 2018

1.A.Saravanan
2.A.K.Arjunan

.. Petitioners

Vs.

1.The Registrar
Debt Recovery Tribunal
Coimbatore

2.The Authorised Officer
Corporation Bank
816. Oppanakara Street
Coimbatore

3.The District Magistrate cum
District Collector
Office of the District Collector
Coimbatore

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the 1st respondent culminating the impugned order dated 10.09.2018 made in S.A.SR.No.9434 of 2018 and quash the same and consequently direct the 1st respondent to number the application dated 10.09.2018 in S.A.SR.No.9434 of 2018 filed under section 17(1) of SARFAESI Act, 2002 and dispose the same in accordance with law.

For Petitioners : Ms. R.Priyakumar

For Respondents : Mr.S.Sethuraman - for R2

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 of the 1st respondent pertaining to the impugned order dated 10.09.2018 made in S.A.SR.No.9434 of 2018, to quash the same and consequently direct the 1st respondent to number the application dated 10.09.2018 filed under section 17(1) of SARFAESI Act, 2002 and dispose of the same in accordance with law.

2. The petitioner has challenged the sale before the Debts Recovery Tribunal, Coimbatore under section 17(1) of SARFAESI Act with a petition to condone the delay of 184 days in filing the Securitisation Appeal. The Registrar of the Debts Recovery Tribunal, Coimbatore, declined to number the Securitisation Appeal for the reason that the appeal has been filed beyond the period of limitation of 45 days. Challenging this order passed by the Registrar of the Tribunal, the petitioner has filed the above Writ Petition.

3. The learned counsel appearing for the petitioner submitted that an opportunity may be given to the petitioner to make his submissions before the Presiding Officer with regard to maintainability of the appeal filed under section 17 of SARFAESI Act. The learned counsel further submitted that he would appear before the Presiding Officer on 23.10.2018 to make his submissions with regard to maintainability of the appeal.

4. The learned counsel appearing for the respondent-bank has no objection for giving an opportunity to the petitioner to make his submissions with regard to maintainability of the appeal.

5. Having regard to the submissions made by the learned counsel on either side, in order to give an opportunity to the petitioner, the order passed by the Registrar, Debts Recovery Tribunal, Coimbatore, is set aside and remanded back to the Tribunal for fresh consideration. The petitioner or his counsel shall appear before the Presiding Officer on 23.10.2018 to make their submission with regard to maintainability of the appeal. The Presiding Officer, Debts Recovery Tribunal, Coimbatore, shall decide the issue with regard to maintainability of the appeal, after hearing the learned counsel for the petitioner and pass orders afresh, on merits and in accordance with law.

With these observations, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

Rj

To

1.The Registrar
Debt Recovery Tribunal
Coimbatore

2.The Authorised Officer
Corporation Bank
816. Oppanakara Street
Coimbatore

3.The District Magistrate cum
District Collector
Office of the District Collector
Coimbatore

+1cc to Mr.S.Sethuraman, Advocate SR.No.70090

+1cc to Mr.R.Priyakumar, Advocate SR.No.70208

+1cc to Government Pleader SR.No.70301

W.P. No.26393 of 2018 and
W.M.P.Nos.30817, 30818 & 30823 of 2018

GMV (11/10/2018)

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