

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.23073 of 2006

ORDER:

This writ petition is filed seeking a writ of mandamus, declaring the impugned notice dated 17.10.2006 issued by respondent No.1 as illegal, arbitrary and contrary to the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") and contrary to the orders of this court made in WPMP No.33644/2003 in W.P.No.26570/2003, dated 23.12.2003 and consequently set aside the same.

Heard Sri Kamla Seelam B, learned counsel for the petitioner.

It has been contended by the petitioner that without following the procedure as contemplated in SARFAESI Act, the respondents had issued the impugned notice, dated 17.10.2006.

This court, having considered the case of the petitioner and in view of the judgment of the Apex Court in *State Bank of Travancore v. Mathew K.C.*¹, the petitioner has to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. The Tribunal has become functional from 03.11.2016. Therefore, the writ petition is not maintainable, as there is efficacious and alternative remedy for the petitioner to pursue his grievance before the Debt Recovery Tribunal.

Therefore, the writ petition is dismissed, leaving it open to the petitioner to approach the Debt Recovery Tribunal under Section 17 of the SARFAESI Act. No order as to costs.

¹ (2018) 3 SCC 85

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 17.04.2018
Dsr

