

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.20596 of 2013 and

M.P.No.1 of 2013

M/s.R.P.G.Spining Mills,
rep by its Proprietor P.Rutharamurthy,
894/1, Vellaraipaara Road,
Arthanaripalayam,
Veeranampalayam (P), Erode District. ... Petitioner

Vs.

1.The Chairperson,
Debt Recovery Appellate Tribunal,
Chennai.

2.State Bank of Mysore,
rep by Branch Manager,
Erode Branch, 738, Nethaji Road,
Periyar Mandram Complex,
1st Floor, Erode - 638 001. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorari to call for and quash the order of the 1st respondent dated 28.05.2013 in R.A.(SA).No.117 of 2012.

For Petitioner : Mr.Avinash Wadhwani
for M/s.V.Raghavachari

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorari to call for and quash the order of the 1st respondent dated 28.05.2013 in R.A.(SA). No.117 of 2012.

2.Challenging the possession notice dated 21.06.2011 published in "Indian Express" Daily on 23.06.2011, the petitioner filed a SARFAESI Appeal in S.A.No.109 of 2012 on 14.03.2012. Under Section 17 of the SARFAESI Act, the aggrieved party should file the SARFAESI Appeal within 45 days from the date of cause of action. In the case on hand, though the notice is dated 21.06.2011, the SARFAESI Appeal was filed only on 14.03.2012 before the Debts Recovery Tribunal, Madurai.

3.It is settled position that the said period of 45 days prescribed under Section 17 of the SARFAESI Act cannot be extended or the delay can be condoned. However, the Debts Recovery Tribunal, Madurai, erroneously condoned the delay and entertained the SARFAESI Appeal and also allowed the same. Aggrieved over the same, the respondent - Bank filed an appeal in R.A.(SA).No.117 of 2012 before the Debt Recovery Appellate Tribunal, Chennai and the Appellate Tribunal, by order dated 28.05.2013, rightly reversed the order passed by the Debts Recovery Tribunal and allowed the appeal. While allowing the appeal, the Appellate Tribunal rightly held that the SARFAESI Appeal itself is barred by limitation.

4.In these circumstances, we do not find any error or irregularity in the order passed by the Debt Recovery Appellate Tribunal. The Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairperson,
Debt Recovery Appellate Tribunal,
Chennai.

2.The Branch Manager,
State Bank of Mysore,
Erode Branch, 738, Nethaji Road,
Periyar Mandram Complex,
1st Floor, Erode - 638 001.

+1cc to Mr.V.Ragavachari , Advocate SR.No. 63756

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A.SK(10/09/2019) A.SK(24/09/2019)