

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.3.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.6814 of 2019
and
W.M.P.No.7590 of 2019

M/s.Land Mark Enterpricess
Proprietrix- Mrs.Gomathi,
Ossukkattu Thottam,
Mamarathupalayam, Erode- 638 004 Petitioner

Versus

The Authorized Officer
Indian overseas Bank
Periasemur Branch
21 Sathy Main Road
Veerappanchatram Post
Periasemur, Erode. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records relating to the impugned proceedings of the possession notice vide No.1346/2018-19 dated 14-2-2019 initiated by the Respondent bank under section 13(4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 and quash the same as illegal.

For petitioner : Mr.S.Arivalagan

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, J.)

The only submission made at the Bar by the learned counsel for the petitioner which we can entertain at this stage, subject to verification, is that there is no properly constituted Debts Recovery Tribunal Bench at Coimbatore where the correct jurisdiction of the petitioner's case under the SARFAESI Act would lie.

2. The learned counsel for the petitioner submitted before us that the Presiding Officer concerned has retired on 26.2.2019 and though the petitioner had filed the Application under Section 17(1) of the SARFAESI Act on 27.2.2019 at Madurai Bench of Debts Recovery Tribunal, but the Application under Section 17 (1) of the Act was returned back for proper presentation by the borrower/petitioner before the appropriate Bench viz., Debts Recovery Tribunal, Coimbatore.

3. We are not inclined to interfere in this case on merits since an effective alternative remedy is available to the Petitioner/Borrower under the forum of Debts Recovery Tribunal. Therefore, we leave it open to the petitioner to approach the Madurai Bench of Debts Recovery Tribunal once again and in case, the Madurai Bench of Debts Recovery Tribunal finds that there is no properly constituted Bench of Debts Recovery Tribunal at Coimbatore to look into the grievance of the petitioner, then for the time being, the Debts Recovery Tribunal, Madurai Bench may entertain the said Application under Section 17(1) of the Act and soon upon constitution of appropriate Bench at Coimbatore, which is said to be the appropriate jurisdiction of the petitioner's case, may transfer the proceedings to Coimbatore Bench.

4. With the aforesaid opportunity, the present petition is disposed of. Copy of this order may be sent to the Madurai Bench of the Debts Recovery Tribunal, Madurai. No order as to costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

ssk

Sub Assistant Registrar

To:

1. The Authorized Officer
Indian overseas Bank
Periasemur Branch
21 Sathy Main Road
Veerappanchatram Post
Periasemur, Erode.
2. The Presiding Officer,
Debts Recovery Tribunal,
Madurai Bench. Madurai.

+1 cc to Mr.S.Arivalagan, Advocate, S.R.No.21747

PVS (CO)
SSM(08/03/2019) .

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