IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAISWAMY

C.R.P.(NPD).Nos.1126 & 1127 of 2016 and
C.M.P.Nos.6489 & 6171 of 2016

Tamil Nadu Veneer Pvt. Ltd.,
rep by its Director,
No.169, Sydenhams Road,
Chennai – 600 003. .. Petitioner in both CRPs

Vs.

1.Indian Bank,
rep by its Authorized Officer,
ARM Branch, Circle Office Building,
4th Floor, No.55, Ethiraj Salai,
Chennai – 600 008. .. 1st respondent in both CRPs

2.Sri Balaji Aluminium,
rep by its Proprietor,
96/3, SIDCO Industrial Estate,
Ambattur, Chennai – 600 098.

3.The Debts Recovery Tribunal – III,
rep by its Registrar,
Spencer Towers,
Anna Salai, Chennai – 600 002. .. Respondents 2 & 3 in CRP(NPD) No.1126/2016

4.Reliance Asset Reconstruction Company Ltd., (RARC)
in its capacity as Trustee of Reliance – ARC-IB- Chennai
Trust having Regd. Office at

Reliance Centre,
19, Walchand Hirachand Marg,
Ballard Estate, Mumbai – 400 001
Corporate Office at
570, Rectifier Home,
2nd Floor, next to Royal Industrial Estate,
Naigaum Cross Road, Wadala,
Mumbai – 400 031. .. 4th Respondent in CRP(NPD).No.1126/2016 & 5th Respondent in CRP(NPD).No.1127/2016

(R4 & R5 impleaded vide order dated 11.07.2017 in C.M.P.Nos.10913 & 10914 of 2017 in Civil Revision Petition(NPD).Nos.1126 & 1127 of 2016)

Petitions filed under Article 227 of the Constitution of India against the order dated 04.08.2015 made in M.A.Nos.129 & 130 of 2014 in SA(SR).Nos.4976 & 4979 of 2014 passed by the Debts Recovery Tribunal – III, Chennai.

For Petitioners (in both CRPs) : Mr.Muralikumaran for M/s.McGAN Law Firm

For Respondents : Mr.T.Sundar Rajan (R1 & R4) (CRP.1126/2016) (R1 & R5) (CRP.1127/2016)
R3 – Tribunal (CRP.1126/2016)
R4 – no appearance (CRP.1126/2016)
Mr.R.Vijayaraghavan (R3) (CRP.1127/2016)
R2 – no appearance (CRP.1127/2016)

COMMON ORDER

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

Challenging the order passed in M.A.No.129 of 2014 in SA(SR).No.4976 of 2014 and M.A.No.130 of 2014 in SA(SR).No.4979 of 2014, the petitioner has filed the above Civil Revision Petitions.

2.Challenging the proceedings taken by the 1st respondent – Bank under the SARFAESI Act, the petitioner filed SARFAESI Appeals in SA(SR).Nos.4976 & 4979 of 2014 with petitions in M.A.Nos.129 & 130 of 2014 to condone the delay of 853 days in preferring the appeals. The Debts Recovery Tribunal – III, Chennai, by order dated 04.08.2015, dismissed the petitions. Aggrieved over the same, the petitioner, instead of approaching the Debt Recovery Appellate Tribunal under Section 18 o the SARFAESI Act, has filed the above Civil Revision Petitions under Article 227 of the Constitution.

3.It is settled position that when an alternate remedy by way of an appeal is available to the petitioner under Section 18 of the SARFAESI Act, the Civil Revision Petitions cannot be entertained by this Court.

3.1.The Hon'ble Supreme Court of India, in the judgments reported in ***2018 (3) Supreme Court Cases 85 [Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C.]*** *and* ***2018 (1) Supreme Court Cases 626 [Agarwal Tracom Private Limited Vs. Punjab National Bank and others]*** held that the aggrieved parties cannot challenge the SARFAESI proceedings directly by filing a Writ Petition under Article 226 of the

Constitution of India without exhausting the appeal remedy available to them.

3.2.In a recent decision of the Supreme Court dated 05.10.2018 in ***ICICI Bank Limited v. Umakanta Mohapatra, Civil Appeal Nos.10251 - 10265 of 2018*** *arising out of SLP (C) Nos.16758 - 16772 of 2015,* the Supreme Court has referred to the decision in **Authorized Officer, State Bank of Travancore and Anr. vs. Mathew K.C., (2018) 3 SCC 85**, and has observed that despite several judgments, including the decision of *Mathew K.C.,* supra, the High Courts continue to entertain matters which arise under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short '*SARFAESI*') and keep granting interim orders in favour of persons who are Non-Performing Assets. Further, the Apex Court held that Writ Petition filed by the aggrieved party without exhausting the statutory remedy available under the *SARFAESI Act and* Recovery of Debts Due to Banks and Financial Institutions Act, is not maintainable.

4.Since the petitioner has filed the Civil Revision Petitions without approaching the Debt Recovery Appellate Tribunal under Section 18 of the SARFAESI Act, we are not inclined to entertain the Civil Revision Petitions.

Accordingly, the Civil Revision Petitions are dismissed. However, it is open to the petitioner to approach the drat in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

Index : Yes/No **(V.K.T., CJ.)** **(M.D., J.)**
Internet : Yes **18.03.2019**
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To

1. The Authorized Officer,
Indian Bank,
ARM Branch, Circle Office Building,
4th Floor, No.55, Ethiraj Salai,
Chennai – 600 008.

2. The Registrar,
Debts Recovery Tribunal – III,
Spencer Towers,
Anna Salai, Chennai – 600 002.

THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

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