

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.8915 of 2019

C.B.Rajender

.. Petitioner

-vs-

1.The Presiding Officer,
Debt Recovery Tribunal-II,
Chennai-02.

2.The Authorised Officer/Chief Manager,
Recovery and Law Department,
Oriental Bank of Commerce,
No.769, First Floor, Spencer Plaza,
Anna Salai, Chennai-600 002.

3.The Deputy General Manager,
Circle Head,
Oriental Bank of Commerce,
No.769, First Floor, Spencer Plaza,
Anna Salai, Chennai-600 002.

4.K.A.Babu

5.A.T.Heera Banu

6.M/s.Vardha Steels,
rep. by its Managing Partner K.A.Babu,
Old No.15, New No.11,
Big Street, Kilpauk Garden,
Chennai - 600 010.

.. Respondents

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, Debt Recovery

Tribunal-II, Chennai in respect of order dated 28.02.2019 as per 'A' diary in S.A.No.371/2018 and quash the same and consequently directing the 2nd respondent Bank to issue sale certificate to the petitioner in respect of the auction property situated at New Door No.11, Old No.15, Big Street, Kilpauk, Chennai-10 in T.S.No.81/138 of Egmore Taluk, Chennai and more fully described in the Schedule of this petition standing in the name of Mrs.A.T.Heera Banu.

For Petitioner : Mr.P.B.Sampathkumar

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard Mr.P.B.Sampath Kumar, learned counsel for the petitioner.

2. The petitioner has challenged the order passed by the Debts Recovery Tribunal-II, Chennai in S.A.No.371 of 2018. As the petitioner has challenged the order passed by the Debts Recovery Tribunal-II, Chennai, we are not inclined to interfere. The appropriate course for the petitioner would be to file an appeal before the Debt Recovery Appellate Tribunal. Thereupon, the learned counsel for the petitioner submitted that the petitioner is an auction purchaser and he is a third party to the proceedings and hence, it is not possible for the petitioner to file an appeal.

3. A perusal of Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, 'SARFAESI Act') shows that any person aggrieved by any order made by the Debts Recovery Tribunal may prefer an appeal. In view of Section 18 of the SARFAESI Act, it is clear that the petitioner, who is the auction purchaser and third party, can also file appeal.

4. As the petitioner has efficacious alternate remedy of preferring an appeal, we are not inclined to entertain the writ petition and the writ petition is dismissed. No costs. Consequently, W.M.P.Nos.9471, 9473 and 9475 of 2019 are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

bbr

To

The Presiding Officer,
Debt Recovery Tribunal-II,
Chennai-02.

+1 cc to Mr.P.B.Sampath Kumar, Advocate, Sr.No. 29919

W.P.No.8915 of 2019

CSL/27.04.2019



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