

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2019

CORAM

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.17459 of 2019

S.Killai Raveendran

.. Petitioner

Vs

- 1.The Regional Manager,
Central Bank of India,
Montieth Road,
Egmore, Chennai - 600 008.
- 2.The Managing Director,
Central Bank of India,
Chander Mukhi Nariman Point,
Mumbai - 400 021.
- 3.The Manager,
Reserve Bank of India,
Fort, Chennai - 600 009.
- 4.The Banking Ombudsmen,
Reserve Bank of India,
Fort, Chennai - 600 009.
- 5.The Branch Manager,
Central Bank of India,
Killai & Post,
Chidambaram Taluk,
Cuddalore District.
- 6.K.Rajendra Ganesh,
The Branch Manager,
Central Bank of India,
Killai & Post,
Chidambaram Taluk,
Cuddalore District.
- 7.The Inspector of Police,
Killai Police Station,
Killai, Cuddalore District.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 1st and 2nd respondents to take appropriate criminal and departmental action as against the 6th respondent for his illegal acts of forgery and misusing his power by providing agricultural loans for himself through Benami and to cancel or revoke the possession notice dated 12.03.2019 on the file of the 1st respondent based on petitioner's representation dated 18.03.2019.

For Petitioner : Mr.A.Prakash

ORDER

(Order of the Court was made by M.Duraiswamy, J.)

The petitioner has filed the above writ petition to issue a writ of mandamus directing the respondents 1 and 2 to take appropriate criminal and departmental action as against the sixth respondent for his illegal acts of forgery and misusing his power by providing agricultural loans for himself through benami and to cancel or revoke the possession notice dated 12.03.2019 on the file of the first respondent based on the petitioner's representation dated 18.03.2019.

2. Though the petitioner has sought for other reliefs, the main relief is only with regard to the possession notice dated 12.03.2019. When the petitioner is challenging the possession notice, he has got remedy by way of an appeal under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act") before the Debts Recovery Tribunal. The petitioner has filed the present writ petition without exhausting the alternate remedy available to him under the SARFAESI Act, 2002.

3. The Supreme Court in The Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C., reported in (2018) 3 SCC 85 and Agarwal Tracom Private Limited Vs. Punjab National Bank and others, reported in (2018) 1 SCC 626 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.

4. In a recent decision of the Supreme Court in ICICI Bank Limited v. Umakanta Mohapatra, reported in 2018 SCC

Online SC 2349, the Supreme Court has referred to the decision in Mathew K.C. case, referred supra, 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 SARFAESI Act and keep granting interim orders in favour of persons who are Non-Performing Assets. Further, the Supreme 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.

5. Since the petitioner has filed the writ petition without exhausting the alternate remedy by way of an appeal available to him under Section 17 of the SARFAESI Act, following the ratio laid down by the Supreme Court in the above referred judgments, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, W.M.P.No.16939 of 2019 is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Regional Manager,
Central Bank of India,
Montieth Road,
Egmore, Chennai - 600 008.
- 2.The Managing Director,
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- 3.The Manager,
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5.The Branch Manager,
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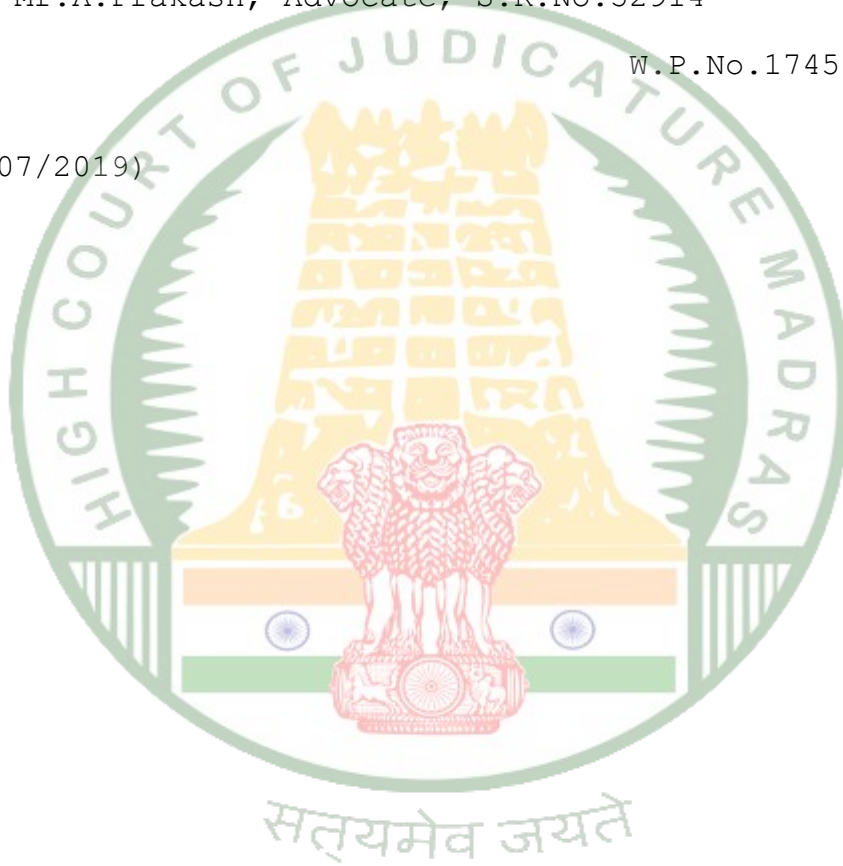
6.Inspector of Police,
Killai Police Station,
Killai,
Cuddalore District.

+1cc to Mr.A.Prakash, Advocate, S.R.No.52914

W.P.No.17459 of 2019

AD(CO)

RRS(19/07/2019)



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