

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.2146 of 2019
and C.M.P.No.13838 of 20191.Minor D.Chandrika
rep by maternal grandmother
Subulakshmi

... Petitioner

Vs.

1.M/s.Central Bank of India,
rep by its Authorized Officer,
Regional Office, 14/15 - V.H.Road,
Coimbatore - 641 001.2.The District Collector,
Executive Magistrate,
Coimbatore District.

3.P.S.Dharmalingam

4.D.Jayanthi

... Respondents

Petition filed under Article 227 of the Constitution of India against the order passed by the Presiding Officer dated 22.05.2019 in SA.(SR).No. 3532 of 2019 on the file of the Debts Recovery Tribunal, Coimbatore.

For Petitioner : Mr.S.Thangavel

ORDER

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

The petitioner has filed the above Civil Revision Petition under Article 227 of the Constitution of India challenging the order passed in S.A.(SR).No.3532 of 2019 on the file of the Debts Recovery Tribunal, Coimbatore.

2.The S.A. has been filed by the petitioner under Section 17 of the SARFAESI Act praying to declare the mortgage executed by the 4th respondent in favour of the 1st respondent as *void ab initio* and to set aside the order of possession passed by the 2nd respondent on 29.08.2018 as unenforceable and not to disturb the petitioner's peaceful possession and enjoyment of the property.

3.The Debts Recovery Tribunal, by order dated 22.05.2019, dismissed the S.A.(SR). Aggrieved over the same, the petitioner has filed the above Civil Revision Petition without exhausting the appeal remedy available to her under Section 18 of the SARFAESI Act.

4. When the petitioner has got remedy by way of an appeal available to her under Section 18 of the SARFAESI Act before the Debt Recovery Appellate Tribunal, the above Civil Revision Petition filed without exhausting the appeal remedy cannot be entertained. In such view of the matter, the Civil Revision Petition is liable to be dismissed. Accordingly, the same is dismissed. It is open to the petitioner to challenge the order passed by the Debts Recovery Tribunal before the Debt Recovery Appellate Tribunal in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No

Internet : Yes

Speaking / Non Speaking Order
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(V.K.T., C.J.)

(M.D., J.)

04.07.2019

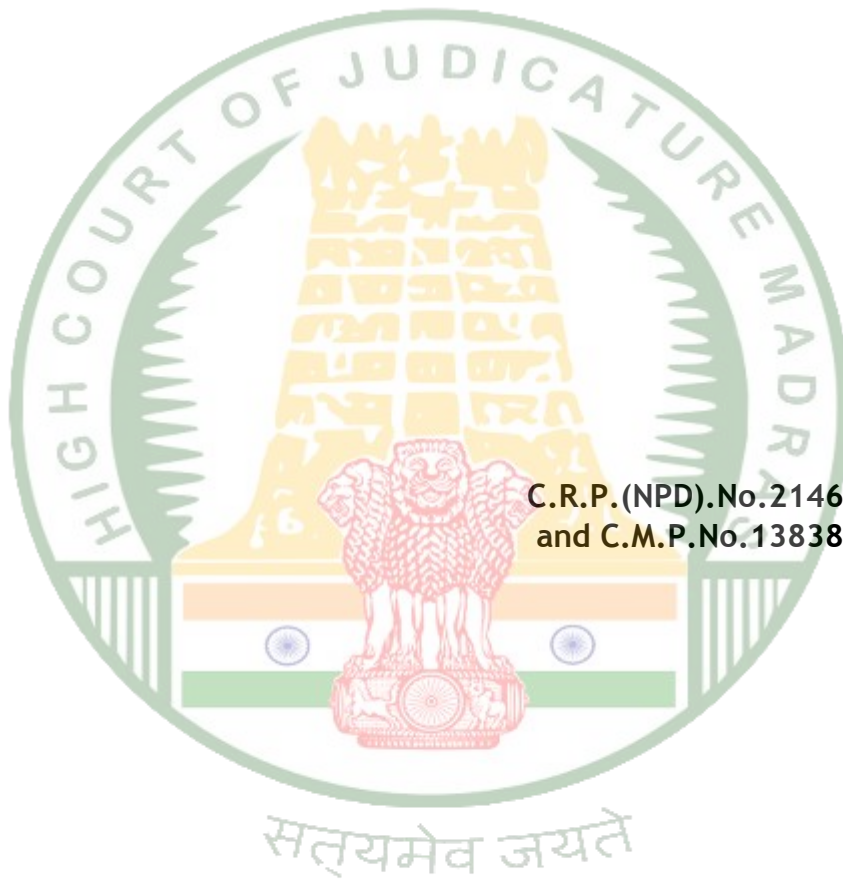
To

1. The Authorized Officer,
M/s. Central Bank of India,
Regional Office, 14/15 - V.H. Road,
Coimbatore - 641 001.

2. The District Collector,
Executive Magistrate,
Coimbatore District.

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

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C.R.P.(NPD).No.2146 of 2019
and C.M.P.No.13838 of 2019

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