IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM :

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

C.R.P.((PD) No.4145 of 2014

ICICI Bank Limited,
West Wing, Plot No.24,
South Phase, Industrial Estate,
Ambattur, Chennai - 600 058 ... Petitioner

v.

1 Mr.R.Amaldhas

2 A.Cecily Amaldhas

3 Mr.S.Alphonse Raj

4 Mr. C.S. Robert Bellarmine ... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 25.06.2014 passed in O.A. SR No.1849 of 2014 on the file of the Debts Recovery Tribunal-III, Chennai.

For Petitioners : Mr.T. Srinivasa Raghavan
for Mr.T.Srinivasa Raghavan & Associates

For Respondents : R1- Died
No Appearance - for R2, R3 & R4

ORDER

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

Challenging the order passed in O.A. SR No.1849 of 2014 on the file of the Debts Recovery Tribunal-III, Chennai, the Bank has filed the above Civil Revision Petition .

2. By order dated 25.06.2014, the Debts Recovery Tribunal, returned the application in O.A. SR No.1849 of 2014, since the same is barred by limitation. The petitioner-bank filed O.A. SR No.1849 of 2014 under section 19(1) of the Recovery of Debts Due To Banks & Financial Institutions Act, 1993 for the recovery of outstanding loan amount. The Debts Recovery Tribunal, returned the application finding that the equitable mortgage was created on 04.08.2000 and that the bank should have filed the application on or before 03.08.2012 as per Article 62 of the Limitation Act. Since the application was filed only on 06.03.2014, the Debts Recovery Tribunal found that the application is barred by limitation.

3. As against the order passed by the Debt Recovery Tribunal, the petitioner-bank, without exhausting the appeal remedy under section 20 of the Recovery of Debts Due To Banks & Financial Institutions Act, 1993,

filed the Civil Revision Petition.

4. It is settled position that if alternate remedy available to the aggrieved party, they cannot circumvent the said remedy and file the Civil Revision Petition under Article 227 of the Constitution of India.

5.1 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 Civil Revision Petition under Article 227 of the Constitution of India without exhausting the appeal remedy available to them.

5.2 . In a recent decision of the Supreme Court ***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 Civil Revision 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.

6. In these circumstances, Since the Civil Revision Petition has been filed without exhausting the appeal remedy, we are not inclined to entertain the Civil Revision Pe tition. However, it is open to the petitioner to challenge the impugned order dated 25.06.2014, passed by the Debts Recovery Tribunal-III, Chennai in O.A. SR No.1849 of 2014 before the Debt Recovery Appellate Tribunal, in accordance with law.

With these observations, the Civil Revision Petition is dismissed. No costs.

(V.K.T., CJ.) (M.D., J.)
08.07.2019

Index : Yes/No
Speaking Order/Non Speaking Order

Rj

To

The Debts Recovery Tribunal-III,
Chennai.

THE HON'BLE CHIEF JUSTICE

AND
M. DURAISWAMY,J.

Rj

C.R.P.((NPD) No.4145 of 2014

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