

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P.No.22288 of 2019 and
W.M.P.Nos.21584 & 21586 of 2019

C.Panneerselvam

.. Petitioner

Vs.

- 1.The District Collector,
Kanchipuram District, Kanchipuram.
- 2.The Tahsildar,
Tambaram Taluk, Tambaram.
- 3.The Revenue Inspector,
Madambakkam, Chennai - 600 126.
- 4.The Branch Manager Cum Authorized Signatory,
State Bank of India,
No. 32 Montieth Road,
Egmore Chennai - 600008

5.T.S.Velu

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorari to call for the records relating to the impugned order dated 17.07.2019 passed by the 2nd respondent vide reference Na.Ka.556/2019/A1 and quash the same.

For Petitioner : Mr.N.S.Karthik
For Respondents: Mr.S.Kamalesh Kannan,
Government Advocate (R1 to R3)

O R D E R

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

The above Writ Petition has been filed by the petitioner to issue a Writ of certiorari to call for the records pertaining to the order passed by the 1st respondent dated 17.07.2019.

2. On a perusal of the order dated 17.07.2019, it is clear that it is only a consequential communication sent by the 1st respondent to the 2nd respondent to the original order passed on 02.02.2019.

3. Admittedly, the petitioner has not challenged the order passed on 02.02.2019. That apart, the petitioner, being an alleged tenant of the property in dispute, his right is only by way of a SARFAESI application before the Debts Recovery Tribunal under Section 17 of the SARFAESI Act.

3.1. 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 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 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.*, cited 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.

4. 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. However, it is open to the petitioner to challenge the impugned order before the Debts Recovery Tribunal in accordance with law. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Kanchipuram District, Kanchipuram.

2.The Tahsildar,
Tambaram Taluk, Tambaram.

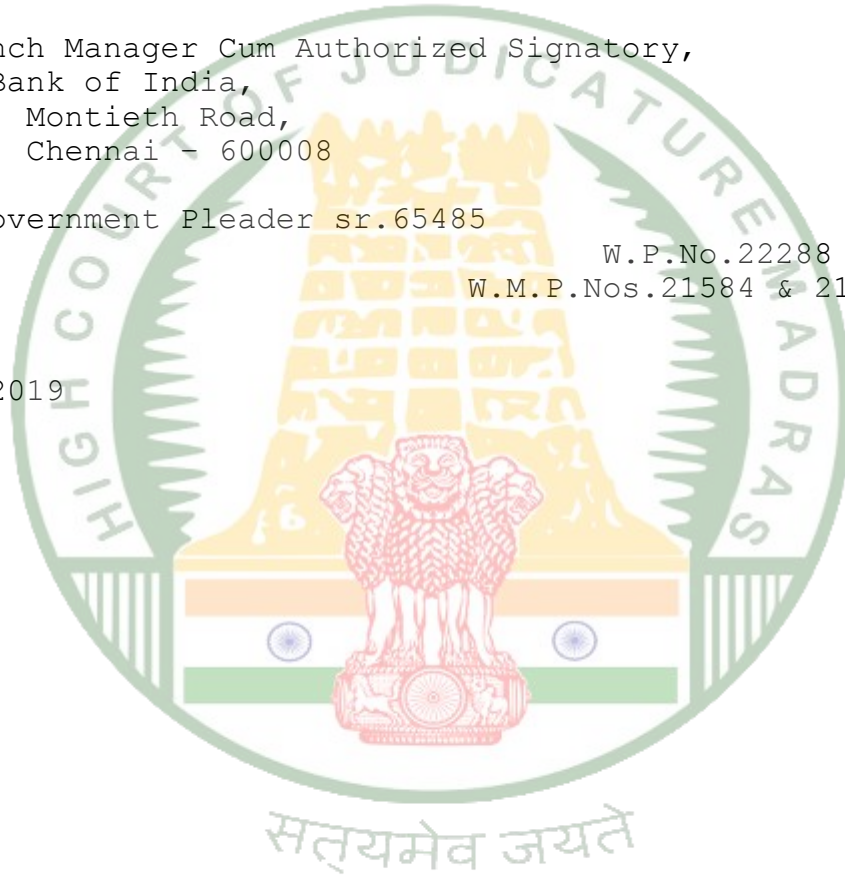
3.The Revenue Inspector,
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4.The Branch Manager Cum Authorized Signatory,
State Bank of India,
No. 32 Montieth Road,
Egmore Chennai - 600008

+lcc to Government Pleader sr.65485

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nr 24/09/2019



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