

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2019

CORAM :

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

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.25698 of 2019

and

W.M.P.Nos.25175 to 25177 of 2019

1.P.Indira Devi
2.V.Rajeswari
3.Dr.M.Rajagopal
4.M.Sivasubramanian
5.M.Rajendran
6.Dr.P.Sivakumar
7.P.Malliga
8.P.Malathi
9.R.Usha
10.R.Sudha
11.G.Aruna
12.G.Deepa

... Petitioners

-vs-

1.The Authorised Officer,
Canara Bank, Mid Corporate Branch,
No.16 & 18, Arokkiyasamy Road,
R.S.Puram, Coimbatore 641 002.

2.R.Sudharsan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the entire records which relates to the impugned possession notice dated 11.7.2019 issued by the 1st respondent and quash the same as illegal and arbitrary and consequently direct the 1st respondent to drop the entire measures initiated under SARFAESI Act in respect of the petitioners Patta land in Survey Nos.148 and 149 and thereafter subdivided as S.F.No.148/2,3,4 and 148/5A, 148/5B, 148/7A, 148/7B, 149/2A, 149/2B, 149/5, 149/7A, 149/7B (T.S.Nos.14/1, 14/2, 25, 27, 31,

32, 44, 45) situated at Ganapathy East Village Coimbatore District.

For Petitioners : Mr.A.V.Raja

O R D E R

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

Heard Mr.A.V.Raja, learned counsel for the petitioners.

2.The petitioners have challenged the possession notice dated 11.07.2019 issued by the first respondent bank. The prayer of the petitioners is that the possession notice issued under Section 13 (4) of the SARFAESI Act, 2002, be quashed.

3.In our view, against the said notice under Section 13 (4) of the SARFAESI Act, the petitioners have an efficacious alternate remedy of approaching the Debts Recovery Tribunal under Section 17 of the said Act.

4.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.

5.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.

6.Following the ratio laid down by the Supreme Court in the above referred judgments, we are not inclined to entertain the writ petition and the petitioners are relegated to the remedy of approaching the Debts Recovery Tribunal, Coimbatore, seeking appropriate relief under Section 17 of the SARFAESI Act.

The writ petition is, accordingly, disposed of. No costs.
Consequently, W.M.P.Nos.25175 to 25177 of 2019 are closed.

Sd/-

Assistant Registrar (Insp Cell)

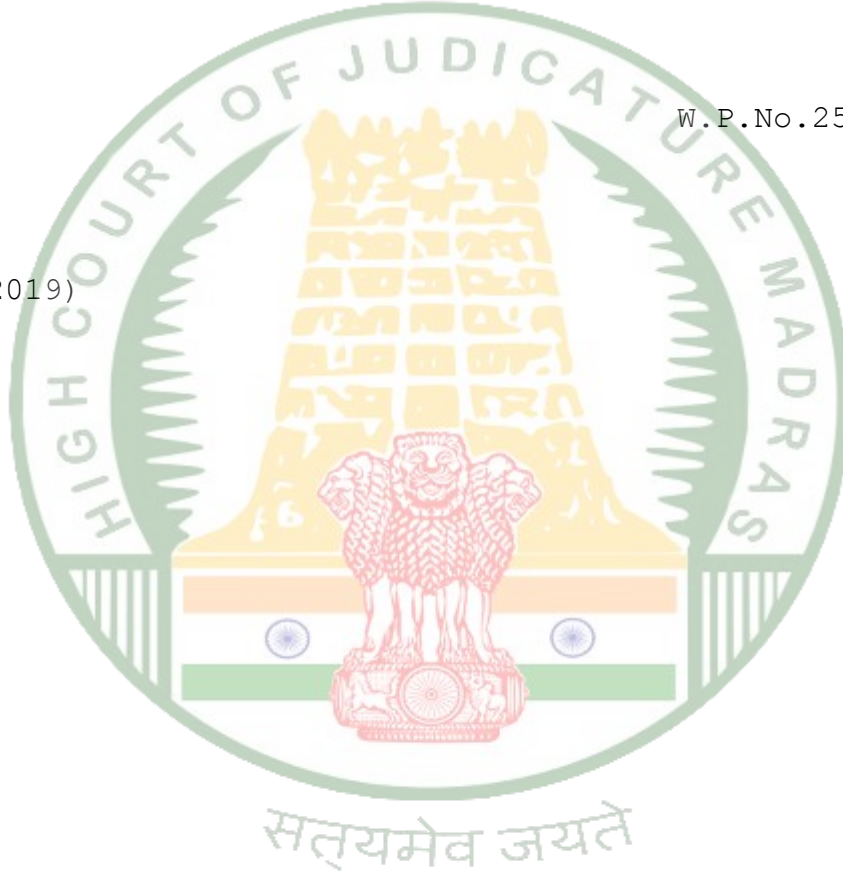
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Sub Assistant Registrar

sra

W.P.No.25698 of 2019

BS (CO)
GN(15/10/2019)



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