

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P.(PD).No.3020 of 2019
and C.M.P.No.19455 of 2019

R.M.Saai Sharavanan

.. Petitioner

Vs.

1.The Debts Recovery Tribunal - II,
Chennai.

2.The Authorized Officer,
State Bank of India,
Asset Recovery Management Branch,
No.44, Eldams Road,
1st Floor, Teynampet,
Chennai - 600 018.

.. Respondents

Petition filed under Article 227 of the Constitution of India to modify the conditions imposed by the 1st respondent vide its order dated 03.09.2019 in I.A.No.971 of 2019 in S.A.No.313 of 2019.

For Petitioner : Mr.S.Gurumoorthy

ORDER

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

The petitioner has filed the above Civil Revision Petition to modify the conditions imposed by the Debts Recovery Tribunal - II, Chennai in the order dated 03.09.2019 in I.A.No.972 of 2019 in S.A.No.313 of 2019.

2.Challenging the e-auction sale notice dated 29.07.2019, the petitioner filed a Securitisation Appeal in S.A.No.313 of 2019 on the file of the Debts Recovery Tribunal - II, Chennai. By the said sale notice, the petitioner was informed that the auction is scheduled to be held on 06.09.2019 (i.e.) today. In the said S.A., the petitioner filed applications in I.A.No.972 of 2019 seeking for stay of the auction sale notice dated 29.07.2019 and I.A.No.971 of 2019 for urgent hearing.

3.By order dated 03.09.2019, the Debts Recovery Tribunal - I (Additional Charge) granted an order of interim stay on condition the petitioner depositing 20% of the amount mentioned in the sale notice in two installments by paying 10% of the amount before 10:30 a.m. on 06.09.2019 and the balance 10% within three weeks thereafter. It was also made clear that in default of either of the conditions, the interim stay shall stand vacated.

4.The petitioner moved the Civil Revision Petition today and the learned counsel for the petitioner submitted that the petitioner has not complied with the conditional order so far. Apart from that, the petitioner has filed the Civil Revision Petition challenging the order dated 03.09.2019 passed by the Debts Recovery Tribunal - II, Chennai without exhausting the alternate remedy available to him.

4.1.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 order passed by the Debts Recovery Tribunal by filing a Civil Revision Petition under Article 227 of the Constitution of India without exhausting the appeal remedy available to them under Section 18 of the SARFAESI Act.

4.2.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 appeal 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 Civil Revision Petition without exhausting the alternate remedy of filing an appeal before the Debt Recovery Appellate Tribunal under Section 18 of the SARFAESI Act, following the ratio laid down by the Hon'ble Supreme Court in the above referred judgments, we are not inclined to entertain the Civil Revision Petition. The Civil Revision Petition is liable to be rejected. Accordingly, the same is dismissed. However, it is open to the petitioner to challenge the impugned order before the Debt Recovery Appellate Tribunal under Section 18 of the SARFAESI Act. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes
Speaking / Non-speaking Order
va

(V.K.T., C.J.) (M.D., J.)
06.09.2019

To

1.The Debts Recovery Tribunal - II,
Chennai.

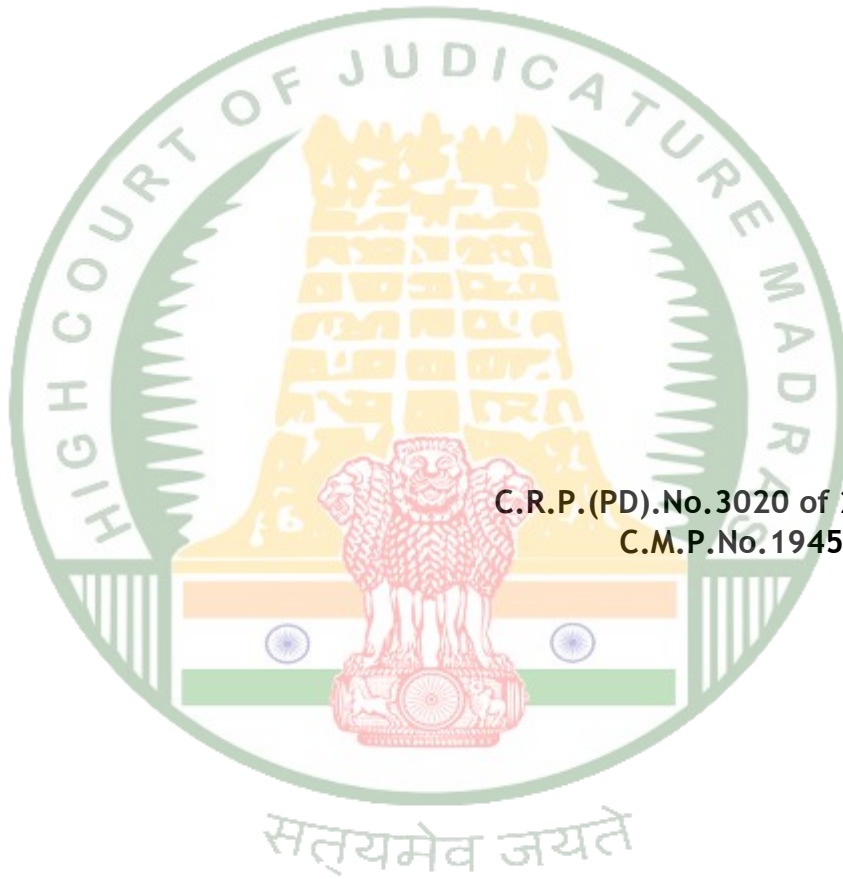
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THE HON'BLE CHIEF JUSTICE
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