IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2019

CORAM :

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

AND

The Hon'ble Mr.JUSTICE M.DURAISWAMY

C.R.P.No.3851 of 2018
and C.M.P.No.21441 of 2018

K.Rajendran .. Petitioner

-vs-

1.The Hon'ble Chief Metropolitan Magistrate, Allikulam, Chennai 600 003.

2.Assets Reconstruction Company of (India) Limited, Rep. by its Authorised Officer, Ms.Manjula Balaji.

3.V.S.Muthupandi .. Respondents

Petition filed under Article 227 of the Constitution of India against the order dated 30.07.2018 passed in Memo Sr.4614 of 2018 in S.A.No.61 of 2018 on the file of Debts Recovery Tribunal-I, Chennai.

For Petitioner : Mr.Vasantha Kumar.V.

For Respondents : R-1 Court
Mr.K.Shankar for R-2
: Mr.K.N.Nataraj for R-3

O R D E R

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

The petitioner has challenged the order dated 30.07.2018 passed in Memo SR.No.4614 of 2018 in S.A.No.61 of 2018 by the Debts Recovery Tribunal-I, Chennai.

2.Though the petitioner has got remedy by way of an appeal under Section 18 of the SARFAESI Act before the Debts Recovery

Appellate Tribunal, without exhausting the alternate remedy, the petitioner has filed the above Civil Revision Petition.

3.The Apex Court in the judgments reported in 2018 (3) Supreme Court Cases 85 [Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C.] and 2018 (1) Supreme Court Cases 626 [Agarwal Tracom Private Limited Vs. Punjab National Bank and others] 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.

4.In a recent decision of the Supreme Court dated 05.10.2018 in ICICI Bank Limited v. Umakanta Mohapatra, Civil Appeal Nos.10251 - 10265 of 2018 arising out of SLP (C) Nos.16758 - 16772 of 2015, the Supreme Court has referred to the decision in Authorized Officer, State Bank of Travancore and Anr. vs. Mathew K.C., (2018) 3 SCC 85, 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI') and keep granting interim orders in favour of persons who are Non-Performing Assets. Further, the Apex 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.

5.In view of the ratio laid down by the Apex Court, the Civil Revision Petition is not maintainable.

6.The learned counsel appearing for the respondents 2 and 3 submitted that the Debts Recovery Tribunal had already disposed of S.A.No.61 of 2018 on 22.01.2019.

7.In view of the statement made by the learned counsel for the respondents, we do not find any reason to keep the Civil Revision Petition pending.

Accordingly, this Civil Revision Petition is dismissed as infructuous. No costs. Consequently, C.M.P.No.21441 of 2018 is also dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sra

To

1.The Chief Metropolitan Magistrate,
Allikulam, Chennai 600 003.

2.The Debts Recovery Tribunal-I,
Chennai.

+1cc to Mr.K.Shankar, Advocate sr.no.19196
+1cc to Mr.K.N.Nataraj, Advocate sr.no.19784

C.R.P.No.3851 of 2018

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