



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.(MD).No.7415 of 2019
and
W.M.P.(MD).No.5938 of 2019

Sasi Kala

... Petitioner

Vs.

1.The Authorised Officer,
Central Bank of India,
Srirangam Branch,
Trichy District.

2.The Authorised Officer,
Central Bank of India,
Regional Office 14 and 15,
Variety Hall Road,
Coimbatore.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned e.auction notice dated 08.03.2019 in SM/SRITIR/2018-19/ and quash the same as illegal.

For Petitioner : Mrs.U.Maheswari
For Respondents : Mr.Pala Ramasamy
Standing counsel

O R D E R

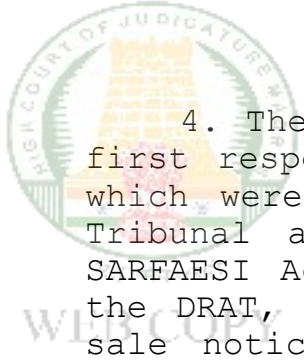
(Order of the Court was made by **K.KALYANASUNDARAM, J.**)

Heard Mrs.U.Maheswari, learned counsel for the petitioner and Mr.Pala Ramasamy, learned Standing counsel for the respondents.

2. By consent, the writ petition itself is taken up for final disposal.

<https://hcservices.ecourts.gov.in/hcservices/>

3. This writ petition has been filed challenging the E Auction notice issued by the second respondent, dated 08.03.2019.



4. The learned counsel for the petitioner would state that the first respondent had issued a demand notice and possession notice which were challenged by the petitioner before the Debt Recovery Tribunal and against the order passed under Section 14 of the SARFAESI Act, the other borrowers have preferred an appeal before the DRAT, Madurai. While so, the second respondent has issued the sale notice mentioning the upset price very low. It is further stated that the respondents are attempting to bring the residential property of the petitioner for auction.

5. The Hon'ble Apex Court, in a recent judgment reported in **2018 SCC Online SC 2349 (ICICI Bank Limited vs. Umakanta Mohapatra)**, has held that the writ petition is not maintainable. The relevant paragraphs would run thus:

"4. The writ petition itself was not maintainable, as a result of which, in view of our recent judgment, which has followed earlier judgments of this Court, held as follows:-

"18. We cannot help but disapprove the approach of the High Court for reasons already noticed in Dwarikesh Sugar Industries Ltd. v. Prem Heavy Engineering Works (P) Ltd., (1997) 6 SCC 450, observing :-

"32. When a position, in law, is well settled as a result of judicial pronouncement of this Court, it would amount to judicial impropriety to say the least, for the subordinate courts including the High Courts to ignore the settled decisions and then to pass a judicial order which is clearly contrary to the settled legal position. Such judicial adventurism cannot be permitted and we strongly deprecate the tendency of the subordinate courts in not applying the settled principles and in passing whimsical orders which necessarily has the effect of granting wrongful and unwarranted relief to one of the parties. It is time that this tendency stops.""

6. In the light of the above decision of the Hon'ble Supreme Court, the writ petition is dismissed as not maintainable with liberty to the petitioner to approach the Debt Recovery Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

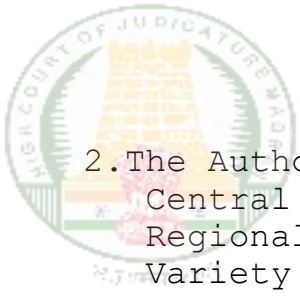
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.The Authorised Officer,
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<https://hcservices.ecourts.gov.in/hcservices/>
Srirangam Branch,
Trichy District.



2.The Authorised Officer,
Central Bank of India,
Regional Office 14 and 15,
Variety Hall Road,
Coimbatore.

+1cc to Mrs.U.Maheswari,Advocate, SR.No.7415

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SP/29.03.2019/ 3P/4C