



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.19710 of 2019

and W.M.P. (MD) Nos.16185 & 16186/2019

M.Ayyapillai : Petitioner

Vs.

1.The District Collector,
cum District Executive Officer,
Thoothukudi District.

2.The Authorized Officer,
UCO Bank
208-C & D, V.E.Road,
Thoothukudi District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records of the impugned order in Na.Ka.C4/31754/2018 dated 15.07.2019 on the file of the 1st respondent and quash the same.

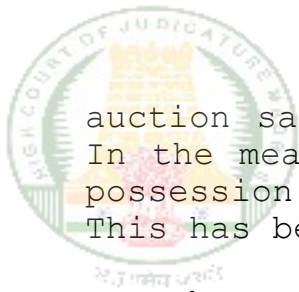
For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.A.K.Baskarapandian for R1
Special Government Pleader

ORDER

This writ petition has been filed challenging the proceeding of the first respondent dated 15.07.2019, wherein, action has been taken to take possession of the property under Section 14 of the SARFAESI Act.

2.Heard the learned counsel for the petitioner and the learned Special Government Pleader for the first respondent.

3.It is seen from the records that the second respondent bank had already brought the property for auction sale and the same is already a subject matter of challenge before the Debts Recovery Tribunal, Madurai, in S.A.No.115/2011. In the said appeal, an interim order has already been passed on 27.05.2011 to the effect that the respondent Bank can proceed further to sell the property in



auction sale and issuance of a sale certificate has been deferred. In the meantime, steps were taken by the second respondent to take possession of the property under Section 14 of the SARFAESI Act. This has been put to challenge in the present writ petition.

4. In the considered view of this Court, the present writ petition is not maintainable and the petitioner ought to have challenged the proceedings of the first respondent only by filing appeal before the Debts Recovery Tribunal. When such an effective, efficacious and alternative remedy is available to the petitioner, we do not find any ground to entertain this writ petition. Therefore, we have to dismiss this writ petition on the ground of maintainability.

5. In view of the above, this Writ Petition is disposed of by giving liberty to the petitioner to approach the Debts Recovery Tribunal and work out his remedy in accordance with law. The proceedings of the first respondent shall be kept in abeyance for a period of two weeks from today to enable the petitioner to work out his remedy. It is made clear that on the expiry of two weeks, the proceedings of the first respondent will revive and thereafter action can be taken by the first respondent in accordance with law. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

To

The District Collector,
cum District Executive Officer,
Thoothukudi District.

+1 CC to M/s.G. PRABHU RAJADURAI, Advocate (SR-86762[F] dated 16/09/2019)

+1 CC to M/s.SPL GP (SR-86942[F] dated 16/09/2019)

Order made in
W.P. (MD)No.19710 of 2019
Dated: 13.09.2019

rr

JM/17.09.2019/2P/4C