



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.10.2019**

CORAM:

**THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI**

W.P. (MD) .No.21014 of 2019

and

W.M.P. (MD) .No.17619 of 2019

P.Karnan

... Petitioner

Vs.

1.The District Collector/
District Magistrate,
Trichy District, Trichy.

2.The Tahsildar,
Thuraiyur Taluk,
Trichy District.

3.The Authorized Officer
Lakshmi Vilas Bank Ltd.,
Thuraiyur Branch,
No.268, Trichy Road,
P.B.No.12, Thuraiyur-621 010

... Respondents

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent order in K.Dis/G5/15975/2018 dated 19.09.2019 served to the petitioner on 25.09.2019 and quash the same as in violation of principles of natural justice, devoid of merits and consequently direct the third respondent not to interfere in the petitioner's properties in any way other than the due process of law.

For Petitioner :Mr.Ananth C.Rajesh

For R1 and R2 :Mr.M.Murugan
Government Advocate

For R3 :Mr.S.I.Muthiah



ORDER

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

Heard Mr.Ananth C Rajes, learned counsel appearing for the petitioner, Mr.M.Murugan, learned Government Advocate appearing for the first and the second respondents and Mr.S.I.Muthiah, learned counsel appearing for the third respondent.

2.By consent on either side, this writ petition is taken up for disposal.

3.The petitioner is aggrieved by an order passed by the first respondent under Section 14 of SARFAESI Act. Admittedly, as against the impugned order, the petitioner has an effective remedy before the Debts Recovery Tribunal(DRT), as it is one of the measure adopted by the Bank, which would fall within the scope of Section 17 of the SARFAESI Act, for an appeal to be maintainable. In fact, the petitioner had filed an SARFAESI appeal, when a show cause notice was issued to him by the District Collector and the said SARFAESI appeal is yet to be numbered and it has been assigned as S.A.SR4460 of 2019. The Tribunal probably has not entertained the appeal, because it is against the show cause notice. However, as of now, an order has been passed by the District Collector under Section 14 of the SARFAESI Act, dated 19.09.2019 as against which, the SARFAESI Appeal is maintainable.

4.Therefore, while holding the writ petition as not maintainable before this Court, we grant liberty to the petitioner to file an appeal as against the impugned order before the Debts Recovery Tribunal (DRT) and if such appeal is filed within a period of one week from the date of receipt of a copy of this order, the Tribunal shall entertain the said appeal without rejecting the same on the ground of limitation. Since the petitioner has remitted Court fee in S.A.SR4460 of 2019, the Tribunal shall permit the petitioner to withdraw the SARFAESI Appeal and his prayer for refund of appeal Court fee shall also be considered by the Tribunal in accordance with law, as the appeal is yet to be numbered.

5.With the above direction, this Writ Petition stands dismissed No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The District Collector/
District Magistrate,
Trichy District,
Trichy.
2. The Tahsildar,
Thuraiyur Taluk,
Trichy District.
3. The Authorized Officer
Lakshmi Vilas Bank Ltd.,
Thuraiyur Branch,
No.268, Trichy Road,
P.B.No.12, Thuraiyur-621 010.

Copy to: The Section Officer,
E.R.Section,
Madurai Bench oif Madras High Court,
Madurai.(2)
(To return the original impugned
order to the petitioner)

+1 CC to M/s.ANANTH C RAJESH, Advocate SR-90813.
+5 CC to M/s.S.I. MUTHIAH, Advocate SR-91011.
+1 CC to GP SR-91196.

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CS (21.10.2019) 3P 13C