



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

and

THE HONOURABLE MRS.JUSTICE **R.THARANI**

C.R.P. (MD)No.2158 of 2019

1.K.Mangayarkarasi

2.Arangulavan

... Petitioners /Appellants

Vs

The Authorized Officer,
Aptus Value Housing Finance Limited,
No.90, 1st Floor, MDSR Enclave,
Bharathidasan Salai,
Cantonment, Trichy - 62001. ... Respondent/Respondent

PRAYER : Petition filed under Article 227 of the Constitution of India to set aside the Judgment in S.A.SR.No.7474 of 2019 dated 27.09.2019 on the file of the Hon'ble Debt Recovery Tribunal at Madurai by allowing this Civil Revision Petition.

For Petitioners : Mr.K.Baalasundharam

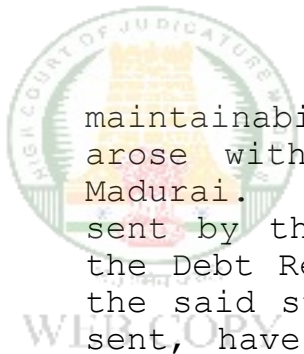
ORDER

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

Heard Mr.K.Baalasundharam, learned counsel for the petitioner.

2.This Civil Revision Petition filed under Article 227 of the Constitution of India is directed against the order passed by the Debt Recovery Tribunal at Madurai dated 27.09.2019 in S.A.SR.No.7474 of 2019.

3.The petitioners filed the appeal before the Tribunal under Section 17(1) of the SARFAESI Act, 2002, challenging the possession notice issued by the respondent/Finance Company dated 11.07.2019. The Registry of the Tribunal raised a query regarding the



maintainability on the ground that no part of the cause of action arose within the jurisdiction of the Debt Recovery Tribunal at Madurai. The petitioners contended that the possession notice was sent by the respondent/finance company from Trichy and therefore, the Debt Recovery Tribunal will have jurisdiction. To substantiate the said stand, the photo copy of the postal cover, which had been sent, have produced before the Tribunal. The Tribunal considered the said statement and held that it cannot be presumed or assumed that the possession notice ought to have been sent from the Head Office of the respondent in Trichy through the postal cover and having found that the possession notice has been signed by the respondent in Pattukottai, held that the Tribunal at Madurai does not have territorial jurisdiction and accordingly the SARFAESI Appeal was rejected.

4.The learned counsel for the petitioner referred to Section 17 (1) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI), 2002. An application under Section 17(1) of the said Act shall be filed before the Debt Recovery Tribunal within the local limits of whose jurisdiction the cause of action wholly or in part arises. According to the learned counsel for the petitioner, the fact that the notice was posted from Trichy would constitute the cause of action and therefore the Tribunal at Madurai will have jurisdiction.

5.Before we examine the correctness of submission, we need to point out that the petitioners who are the borrowers are residing in Pudukottai District. The property which is the subject matter of the loan transaction is situated in Pattukottai. The notice issued by the respondent has been signed by the officer at Pattukottai. If this is so, then, the Tribunal at Chennai will alone have jurisdiction. The question would be whether the postal cover can be taken to be a relevant fact for deciding the cause of action and to hold that a part of the cause of action arose within the jurisdiction of the Tribunal at Madurai.

6.In our considered view, the Tribunal has considered this issue and found that the notice was signed at Pattukottai and the Tribunal rightly held that merely by referring to a photostat copy of the postal cover which shows an address of the respondent at Trichy, which cannot be presumed that the Tribunal at Madurai had jurisdiction. We find that there is no error in the finding rendered by the Tribunal holding that the Tribunal at Madurai has no jurisdiction.

7.However, the Tribunal, having found that it does not have territorial jurisdiction should have returned the SARFAESI Appeal to the petitioner to be presented before the Tribunal at Chennai. Hence to that extent, we find that the Tribunal should have returned the appeal papers. However, this can be rectified by us in this



8.For the above reasons, while dismissing the Civil Revision Petition, we direct the Tribunal to modify its order and return the SARFAESI Appeal to the petitioner to enable the petitioner to present the same before the Debt Recovery Tribunal, Chennai.

9.With the above direction, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

pnn

To
The Presiding Officer,
Debts Recovery Tribunal,
Madurai.

+1 CC to M/s.K. BAALASUNDHARAM, Advocate (SR-102724[F] dated 29/11/2019)

C.R.P. (MD)No.2158 of 2019

28.11.2019

KK/SAR/03.01.2020/2P-3C/