



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 19.12.2019**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.DURAISWAMY**

**AND**

**THE HONOURABLE MR.JUSTICE T.RAVINDRAN**

**W.P(MD)No.27000 of 2019**

**and**

**W.M.P(MD)Nos.23550 to 23552 of 2019**

T.R.Krishnamoorthy

... Petitioner

Vs.

1.The District Collector,  
District Collector Office,  
Karur.

2.The Chief Manager,  
Allahabad Bank,  
Vairams Complex, 2<sup>nd</sup> Floor,  
112, Thyagaraya Road,  
T.Nagar,  
Chennai - 600 017.

3.The Branch Manager,  
Allahabad Bank,  
16, Sengunthapuram,  
5<sup>th</sup> Cross,  
Karur - 639 002.

4.S.Manohar

5.V.Nagarajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in Rc.No.D4/2206/2019 dated 29.11.2019 and to quash the same as illegal, inconsequently restraining the respondents 1 to 3 from taking physical possession of the petitioner's ancestral property situated in SF.No.47/D2 and SF.No.47/E2 of Manmangalam Village, Karur District.

For Petitioner

: Mr.R.Rajamohan

For R - 1

: Mr.VR.Shanmuganathan,  
Special Government Pleader.



For RR 2 & 3

: Mr.Pala Ramasamy

**ORDER**

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

WEB COPY

Challenging the order passed by the first respondent / District Collector, Karur, the petitioner, who is the third party to the proceedings, has filed the above Writ Petition.

2.It is not in dispute that the fifth respondent borrowed loan from the respondent Bank. Since he defaulted in repaying the loan, the respondents 2 and 3 proceeded against him under the SARFAESI Act. Subsequently, the property was sold in auction to the fourth respondent. Thereafter, the respondent Bank filed an application under Section 14 of the SARFAESI Act before the first respondent for taking physical possession of the property. By order dated 29.11.2019, the first respondent allowed the petition and directed the Sub-Divisional Magistrate and the Revenue Divisional Officer, Karur to take physical possession of the property. Challenging this order, the petitioner has filed the Writ Petition contending that he has got a share in the property and that his share has been sold in the auction to the fourth respondent.

3.The petitioner has approached this Court under Article 226 of the Constitution of India without exhausting the alternative remedy available to him by way of an appeal under Section 17 of the SARFAESI Act.

4.The Honourable Supreme Court in the cases of **The Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C.**, reported in (2018) 3 SCC 85 and **Agarwal Tracom Private Limited Vs. Punjab National Bank and others**, reported in (2018) 1 SCC 626 has 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.

5.In a recent decision of the Honourable Supreme Court in **ICICI Bank Limited v. Umakanta Mohapatra**, reported in 2018 SCC Online SC 2349, the Apex Court has referred to the decision in the case of **Mathew K.C.**, referred supra, and observed that despite several judgments, including the decision in the case of **Mathew K.C.**, referred supra, the High Courts continue to entertain matters which arise under the SARFAESI Act and keep granting interim orders in favour of persons who are Non-Performing Assets. Further, the Honourable Supreme Court has 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.

6.The learned counsel appearing for the respondents 2 and 3 submitted that pursuant to the order passed on 29.11.2019, the first respondent took physical possession of the property on 11.12.2019 and handed over the same to the respondents 2 and 3 on the same day.

7.Since the petitioner has filed the Writ Petition without exhausting the alternative remedy, in view of the ratio laid down by the Hon'ble Supreme Court, we are not inclined to entertain the Writ Petition. However, it is open to the petitioner to challenge the order dated 29.11.2019 passed by the first respondent before the Debt Recovery Tribunal in accordance with law.

8.With these observations, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ps

To

1.The District Collector,  
District Collector Office,  
Karur.

2.The Chief Manager,  
Allahabad Bank,  
Vairams Complex, 2<sup>nd</sup> Floor,  
112, Thyagaraya Road,  
T.Nagar, Chennai - 600 017.

3.The Branch Manager,  
Allahabad Bank,  
16, Sengunthapuram,  
5<sup>th</sup> Cross, Karur - 639 002.

+1 CC to M/s.R.RAJAMOHAN, Advocate ( SR-105983[F] dated 19/12/2019 )  
+1 CC to M/s.SPL.GP ( SR-106150[F] dated 20/12/2019 )

**W.P (MD)No.27000 of 2019**  
**19.12.2019**

JMN(07.01.2020) 3P : 6C

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