



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P.(MD)No.27224 of 2019

and

W.M.P.(MD).No.23514 of 2019

J.Immanuel

... Petitioner

Vs.

- 1.Authorised Officer,
Regional Office, Indian Overseas Bank,
IOB Towers, 12/1, APT Road,
Park Road - Sathi Road Junction,
Erode-638 003.
- 2.The Branch Manager,
Indian Overseas Bank,
Thanthonimalai Branch,
Dindigul Road, Karur District.
- 3.The Superintendent of Police, Karur District.
- 4.The Inspector of Police,
Vengamedu Police Station, Karur District.
- 5.M/s.S.M.K.Traders,
No.109-A, New Salem Bypass Road,
LNS Post, Karur-639 002.
- 6.Manikandan Kamaraj
- 7.E.Sathishkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from forcibly evicting the petitioner from the house of the petitioner in Door No.21, Muthuveni Nagar, Vangal Road, Balammalpuram, Karur District.



For Petitioner : Mr.R.Devaraj
For R3 & R4 : Mr.VR.Shanmuganathan,
Special Government Pleader.

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O R D E R

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

The petitioner, who is a lessee under the borrower filed the above writ petition to issue a writ of Mandamus forbearing the respondents from forcibly evicting the petitioner from the house of the petitioner in Door No.21, Muthuveni Nagar, Vangal Road, Balammalpuram, Karur District.

2. It is the case of the petitioner that his landlord had availed a loan from the respondent Bank and a SARFAESI proceeding has been initiated against him by the respondent Bank. Further, it is the case of the petitioner that the respondents 1 and 2 are trying to evict the petitioner forcibly from the property. The petitioner being a tenant has got alternative remedy by way of an appeal under Section 17(4)(a) of the SARFAESI Act before the Debt Recovery Tribunal. The petitioner has filed the writ petition without exhausting the alternative remedy.

3. 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.

4. 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.



5. In such view of the matter, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. However, it is open to the petitioner to challenge the proceedings before the Debt Recovery Tribunal in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

Sub Assistant Registrar(CS)

akv

To

1.The Superintendent of Police,
Karur District.

2.The Inspector of Police,
Vengamedu Police Station,
Karur District.

+1 CC to M/s.R.DEVARAJ, Advocate (SR-106297[F] dated 20/12/2019)

W.P. (MD) No.27224 of 2019
20.12.2019

avs(CO)

TR(20.12.2019) 3P 4C