

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 934 of 2020**

1. T. Radhakrishnan, S/o Late C. Thankappan, Aged About 63 Years
R/o Plot No. A-2/4, Golden Kings Court, A K Block, 10th Main Road,
Anna Nagar, Chennai 600040 (T N)

---- Petitioner**Versus**

1. PNB Housing Finance Ltd. Through Its Authorized Officer, 9th Floor,
Antriksh Bhawan, 22 Kasturba Gandhi Marg, New Delhi 110001
2. PNB Housing Finance Ltd., Through Its Branch Head, Branch At 11
And 112, 1st Floor, Plot No. 01, Block No. 09, DB Corporate Park,
Dainik Bhaskar Building, Rajbandha Maidan, Raipur (Chhattisgarh)
492001
3. The Registrar, Debts Recovery Tribunal, 797-II Shanti Kunj, South
Civil Lines, Jabalpur (Madhya Pradesh) 482001

---Respondents

For petitioner	: Mr. K.R. Nair, Advocate
For Respondents	: Smt. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****18.03.2020**

1. The challenge in the present writ petition is to the order Annexure P-1
dated 29.08.2019 passed by the Debts Recovery Tribunal, Jabalpur
in S.A. No. 135 of 2019.
2. Though the petitioner has raised various grounds questioning the
impugned order, so also the competency of the respondent-bank in
initiating proceedings against the petitioner, but this Court *prima-facie*
is the view that the writ petition would not be maintainable for the
reason that firstly, the petitioner himself had approached the Tribunal
by filing the Securitisation Application under section 17 (1) of the

SARFAESI Act, 2002. Secondly, from the observations made in paragraph 3 and 4 of the impugned order, it clearly gives sufficient indication that the order passed by the Tribunal being an order with the consent of the parties. In the light of the order being passed with the consent of the parties, the petitioner at this belated stage cannot be permitted to turn around and question the same by way of a writ petition.

3. If at all, if there was any observation made by the Tribunal which was not agreeable to the petitioner or has been left-out from being observed in the petition, the only recourse open to the petitioner was to promptly prefer a review petition before the same authority and seek review or modification of the order dated 29.08.2019. The petitioner having not availed the said remedy, forces this Court to further infer that the observations were agreeable to the petitioner at that point of time. Even if the petitioner has not availed the remedy of review available to him, it was always open for the petitioner to challenge the same in an appeal before the D.R.A.T., which again the petitioner has not availed. In the absence of, the petitioner not availing the aforesaid remedies open to him then, this Court is of the opinion that the writ petition at this juncture in the given facts and circumstances would not be maintainable and the same accordingly stands rejected.
4. The reluctance of this Court in entertaining the writ petition would not preclude the petitioner from availing the other remedies open to him under the writ jurisdiction.

Sd/-
(P. Sam Koshy)
Judge