



WEB COPY

W.P.(MD) No.612 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

and

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P. (MD) No.612 of 2020

and

W.M.P. (MD) No.447 of 2020

S.Noornisha

... Petitioner

-VS-

1.The Authorized Officer
City Union Bank Ltd.,
Administrative Office
No.24B, Gandhi Nagar
Kumbakonam

2.The Manager
City Union Bank Ltd.,
Manapparai Branch
Trichy District

3.Saida Mohammed

4.Sirajunisa

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for records relating to the impugned auction sale notice dated 05.12.2019 issued by the 1st respondent in his proceedings in C.O./REC/NPA/2019-2020 and quash the same.

For Petitioner : Mr.B.Prahalad Ravi

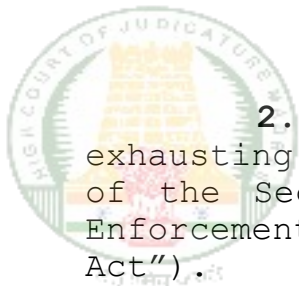
For Respondents : Mr.Pala Ramasamy for R1 & R2

O R D E R

[Order of the Court was made by M.DURAI SWAMY, J.]

The petitioner has filed the above writ petition to issue a writ of certiorari to call for records relating to the impugned auction sale notice, dated 05.12.2019, issued by the first respondent and to quash the same.

<https://hse.courts.gov.in/hse/vs>



2. The petitioner has filed the above writ petition without exhausting the alternative remedy available to her under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "the SARFAESI Act").

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 the 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 and it is open to the petitioner to challenge the sale notice dated 05.12.2019, issued by the respondent - Bank, before the Debts Recovery Tribunal, in accordance with law.

6. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

+1 CC to M/s.A.JOEL PAUL ANTONY, Advocate (SR-1423)

W.P. (MD) No.612 of 2020

and

W.M.P. (MD) No.447 of 2020

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