



WEB COPY

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.691 of 2020
and
W.M.P. (MD)Nos.502 and 503 of 2020**

R.Govindaraju

... Petitioner

Vs.

1.The District Collector and District Magistrate,
Collectorate,
Thanjavur.

2.The Tahsildar,
Orathanadu Taluk,
Thanjavur District.

3.The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.

4.The Authorised Officer,
M/s Equitas Small Finance Bank Ltd.,
Door No.106, Sarangapani East Street,
Kumbakonam Taluk,
Thanjavur District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for all records relating to the impugned order of the first respondent made in R.C.No.39845/2017/C1, dated 30.07.2018 and quash the above orders insofar as the petitioner's Loan Account No.VLPHKMBK0000276 is concerned.

For Petitioner : Mr.T.Govindasamy

For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader
for R.1 to R.3



ORDER

[Order of the Court was delivered by **M.DURAISWAMY, J.**]

The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records relating to the impugned order of the first respondent dated 30.07.2018 and quash the same insofar as the petitioner's loan account is concerned.

2. The petitioner has filed the above writ petition under Article 226 of the Constitution of India without exhausting the alternative remedy available to him under Section 17 of the SARFAESI Act. It is settled position that if the aggrieved party files a writ petition without exhausting the alternative remedy available to him under Section 17 of the Act, the same is not maintainable.

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 and accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1.The District Collector and District Magistrate,
Collectorate,
Thanjavur.

2.The Tahsildar,
Orathanadu Taluk,
Thanjavur District.

3.The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.

+1 CC to SPL.GP (SR-1606[F] dated 13/01/2020)

W.P. (MD) No.691 of 2020

10.01.2020

MK (24.01.2020) 3P 5C