



WEB COPY

W.P(MD)No.1285 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2020

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THE HONOURABLE MR.JUSTICE M.DURAISWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P(MD)No.1285 of 2020

and

W.M.P(MD)No.1035 of 2020

MPN Tradings,
represented by its
Proprietor,
M.Ramesh

... Petitioner

Vs.

1.The Authorized Officer,
Axis Bank Ltd.,
Arcot Plaza,
Old No.38, New No.165,
Arcot Road, Kodambakkam,
Chennai.

2.The Branch Manager,
Axis Bank, Nagercoil Branch,
Kanyakumari District.

3.The Inspector of Police,
District Crime Branch, Nagercoil,
Kanyakumari District.

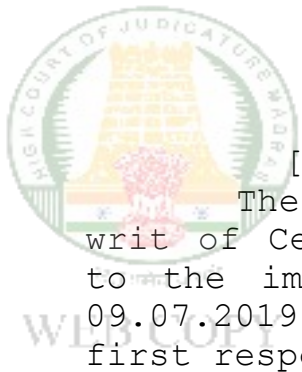
... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice under Section 13(2) of the SARFAESI Act issued by the second respondent vide Ref.No.AXISB/AGRI/JULY/19-20-457493/2179, dated 09.07.2019, and also consequential impugned notice under Section 13(8) of the SARFAESI Act issued by the first respondent vide Ref.No.AXIS/HL/PPN/SEP/2019-20/2179, dated 24.09.2019 and quash the same as illegal and consequently, forbear the first respondent to proceed further in respect of the petitioner's property under the SARFAESI Act since it is barred under the said Act.

For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.S.Angappan
Government Advocate for R.3

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ORDER

[Order of the Court was made 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 notice issued by the second respondent, dated 09.07.2019 and also consequential impugned notice issued by the first respondent, dated 24.09.2019 and quash the same.

2. The first respondent issued notice under Section under Section 13(8) of the SARFAESI Act directing the authorities to take possession of the secured assets. When the petitioner has got an alternative remedy by way of an appeal under Section 17 of the SARFAESI Act, the writ petition cannot be entertained.

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 Petition is also dismissed.

Sd/-

Assistant Registrar(Crl Side)

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Sub Assistant Registrar(CS)



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To
The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-2924[F] dated
24/01/2020)

+1 CC to M/s.SPL GP (SR-2811[F] dated 24/01/2020)

W.P(MD)No.1285 of 2020

and

W.M.P(MD)No.1035 of 2020

23.01.2020

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