



WEB COPY

W.P.(MD)No.26545 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P. (MD)No.26545 of 2019

and

W.M.P. (MD)No.22921 of 2019

1.P.M.Shajahan

2.Rameesh Banu

... Petitioners

Vs.

1.The District Magistrate / District Collector,
O/o District Magistrate, Collectorate,
Trichy.

2.The Authorized Officer,
REPCO HOME FINANCE LIMITED,
Trichy Branch,
No.24, Ram Arcade, B-14, 3rd Floor,
11th Cross Main Road, Thillai Nagar,
Trichy-18.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the first respondent in K.Dis/G5/18929-2017, dated 13.11.2019 and quash the same as illegal, arbitrary and unconstitutional.

For Petitioners

: Mr.B.Janath Ahmed

For Respondents

: Mr.V.R.Shanmuganathan

Special Government Pleader
for R.1

: Mr.B.Rajesh Saravanan

for R.2

ORDER

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

The petitioners have filed the above writ petition to issue a writ of certiorari to call for the records relating to the impugned order passed by the first respondent, dated 13.11.2019 and quash the same.



2. In an application filed under Section 14 of the SARFAESI Act, the first respondent had passed the impugned order dated 13.11.2019 directing the authorities to take possession of the secured assets. When the petitioners have 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 ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ssl



To

The District Magistrate / District Collector,
O/o District Magistrate, Collectorate, Trichy.

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+1 CC to SPL.GP (SR-2127[F] dated 21/01/2020)

+1 CC to Mr.B.RAJESH SARAVANAN, Advocate (SR-2109[F] dated
21/01/2020)

+1 CC to Mr.B.JANATH AHAMED, Advocate (SR-2426[F] dated 22/01/2020

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VB(29.01.2020) 3P 5C