



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

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W.P(MD)No.18239 of 2017 & W.M.P(MD)Nos.14673 & 14674 of 2017 & 5272
of 2018

and

W.P(MD)No.17099 of 2017 & W.M.P(MD)No.13681 of 2017

W.P(MD)No.18239 of 2017:

Antony Samy

... Petitioner

Vs.

1.The State Bank of India,
represented by its
Chief Manager,
Authorized Officer,
State Bank of India,
RBO I, Administrative Office,
Trichy - 1.

2.S.Ravichandran
Chief Manager,
S/o.Seappan,
No.50, Saraswathi Nagar,
Airport Post,
Trichy - 7.

3.The Branch Manager,
State Bank of India,
HAPP Branch,
HAPP Township,
Trichy - 25.

4.Chitra,
Branch Manager,
State Bank of India,
HAPP Branch,
HAPP Township,
Trichy - 25.

5.Tamilselvan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the impugned Sale Certificate issued by the first respondent in favour



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of the fifth respondent as Document No.2882/2017, on 03.08.2017 and quash the same.

For Petitioner : Mr.R.Subramanian
For Respondents : Mr.P.Jeyaraman for R.3 & R.4
Mr.J.David Ganesan for R.5
No appearance for R.1 & R.2

W.P (MD) No.17099 of 2017:

A.Anthonysamy ... Petitioner
Vs.

1.The Branch Manager,
State Bank of India,
HAPP Branch Market Centre,
HAPP Township,
Trichy - 25.

2.Tamilselvan ... Respondents

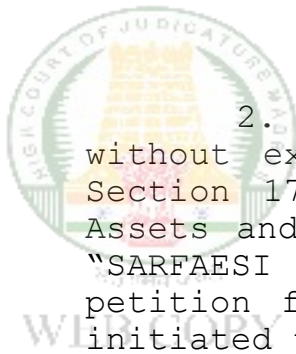
Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to consider the representations of the petitioner, dated 27.06.2017 and 13.07.2017 and further direct the first respondent to release the mortgaged property.

For Petitioner : Mr.K.Arunraj
For Respondents : Mr.P.Jeyaraman for R.1
Mr.J.David Ganesan for R.2

COMMON ORDER

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

The petitioner/borrower has filed the above writ petitions, (i) to issue a Writ of Certiorari to call for the impugned Sale Certificate issued by the first respondent in favour of the fifth respondent as Document No.2882/2017, on 03.08.2017 and quash the same and (ii) to issue a Writ of Mandamus to direct the first respondent to consider the representations of the petitioner, dated 27.06.2017 and 13.07.2017 and further direct the first respondent to release the mortgaged property.



2. The petitioner/borrower has filed the above writ petitions without exhausting the alternative remedy available to him under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, (in short "SARFAESI Act"). It is settled position of law that the writ petition filed by the aggrieved party challenging the proceedings initiated under the SARFAESI Act 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.***, (cited supra) and observed that despite several judgments, including the decision in the case of ***Mathew K.C.***, (cited 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. From the above referred judgments, it is clear that a writ petition filed by the aggrieved party without exhausting the alternative remedy available to him under Section 17 of the SARFAESI Act, is not maintainable.

6. In such view of the matter, we are not inclined to entertain the present writ petitions and accordingly, both the writ petitions are dismissed. No costs. Consequently, W.M.P(MD)Nos.14673, 14674 and 13681 of 2017 are dismissed and W.M.P(MD)No.5272 of 2018 is closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)



+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-5002[F] dated 06/02/2020)

+2 CC to M/s.J.DAVID GANESAN, Advocate (SR-5192 & 5194[F] dated 07/02/2020

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+1cc to Mr.K.Arunraj, Advocate, SR.No.5052

W.P (MD) No.18239 of 2017

& W.M.P (MD) Nos.14673 & 14674 of 2017

& 5272 of 2018

and

W.P (MD) No.17099 of 2017

& W.M.P (MD) No.13681 of 2017

05.02.2020

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