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C.R.P. (PD) (MD) .No.1228 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :28.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (PD) (MD) .No.1228 of 2021

and

C.M.P (MD) No.7021 of 2021

Suhailsubi

... Petitioner/Appellant

-vs-

1. The Authorised Officer,
Indian Overseas Bank,
Swamiyarmadam Branch,
11/118, Nesian 56 Building,
Kattahturai,
Nagercoil - Trivandrum Road,
Swamiyarmadam,
Kanyakumari District - 18.

2. Abish Ronald

3. Mujeeb Rahuman

... Respondents

PRAYER : Petition is filed under Article 227 of the Constitution of India, against the unnumbered S.A. of 2021 in e. DRT Diary No.886 of 2021 returned on 03.08.2021 on the file of the Debt Recovery Tribunal, Madurai.

For Petitioner : Mr.D.Srinivasaraghavan
For Respondents : Mr.R.Pandivel

O R D E R

(Order of the Court was made by V. BHARATHIDASAN, J.)

The Civil Revision Petition has been filed seeking to number the appeal filed by the petitioner under Section 17 of the SARFAESI Act in e.D.R.T. Diary No.886 of 2021.

2. The grievance of the petitioner is that the petitioner is a borrower, earlier, proceeding has been initiated under the SARFAESI Act, and the mortgaged property have been brought for sale. The original auction sale notice has been issued in respect of four properties, out of which only one property has been sold in the auction. Once again, another notice has been issued in respect of remaining three properties, and the remaining properties also been sold. Now, the petitioner, challenging both



auction sale notices, filed a single appeal before the Debt Recovery Tribunal, Madurai, in e. D.R.T. Diary No.886 of 2021. The Tribunal refusing to number the appeal and insisted the petitioner to file two separate appeals, challenging the two separate auction sale notice. Hence, the present Civil Revision Petition has been filed, wherein a direction has been sought to the Debt Recovery Tribunal to entertain a single appeal, challenging both the auction sale notices.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

4. Admittedly it is a single loan account, and the single notice has been issued under Section 13(4) of the SARFAESI Act. Thereafter, the auction sale notification has been issued in respect of four scheduled mentioned properties. But for want of purchasers, only one property has been sold. Subsequently, remaining three properties have been sold by issuing a another auction sale notice. Now, challenging both the auction sale notices, the petitioner has filed an appeal under Section 17 of the Act. Considering the fact that, the original auction sale notice contained all the four secured properties, however, since there was no purchaser, the sale has been split up into two, and two public auctions have been conducted, for that the petitioner cannot be blamed. In the said circumstances, the petitioner cannot be insisted to file two separate appeals and it is sufficient that the petitioner has to file a single appeal, challenging both the auction sale notifications. Hence, the Debt Recovery Tribunal, Madurai is directed to number the appeal filed by the petitioner in e.D.R.T. Diary No.886 of 2021, subject to limitation, and if the papers are in order and proceed with the enquiry. The respondent Bank is permitted to raise all the objections, including the question of limitation, in the appeal filed by the petitioner.

5. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

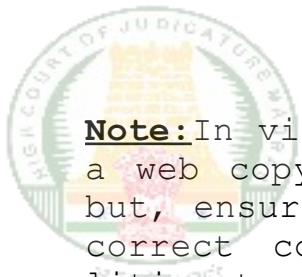
Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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To

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Nagercoil - Trivandrum Road,
Swamiyarmadam,
Kanyakumari District - 18.

2. The Debt Recovery Tribunal,
Madurai.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-33099[F] dated 28/10/2021)

C.R.P. (PD) (MD) No.1228 of 2021
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RK/PM(17/11/2021) 3P 4C