



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.09.2021

CORAM:

**THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

C.R.P(MD)No.1379 of 2021

K.Rajeswari

... Revision Petitioner /
Appellant

-Vs-

1. The Chief Judicial Magistrate /
The District Magistrate,
District Court Complex,
Tirupur.

2.The Authorised Officer,
South Indian Bank Ltd.,
1st Floor, YMCA Building,
70 feet Road, Ellis Nagar,
Madurai - 625 001.

... Respondents /
Defendants 1 and 2

PRAYER : Petition is filed under Article 227 of the Constitution of India, praying to allow the Civil Revision Petition filed by the Civil Revision Petitioner by setting aside the orders of dismissal passed by the DRT, Madurai in I.A.No.895 of 2021 in S.A.No.240/2021 on 16-07-2021.

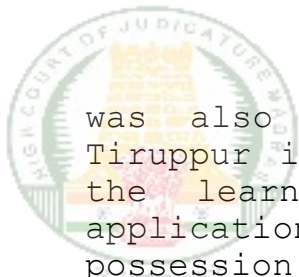
For Petitioner : Mr.S.Rengasamy

O R D E R

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

Challenging the order passed by the Debt Recovery Tribunal, Madurai in I.A.No.895 of 2001, dated 16.07.2021, the present Revision has been filed.

2. The petitioner is the guarantor. Earlier, a proceeding under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has been initiated at the instance of the creditor viz., the 2nd respondent herein, and an application under Section 14 of the Act



was also filed before the learned Chief Judicial Magistrate, Tiruppur in Cr.M.P.No.509 of 2020. By an order dated 12.03.2021, the learned Chief Judicial Magistrate, Tiruppur allowed the application and appointed the Advocate Commissioner to take possession of the mortgaged property.

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3. Challenging the above said order, the petitioner has filed an appeal under Section 17 of the Act, before the Debt Recovery Tribunal, Madurai in S.A.No.240 of 2021. Pending the appeal, the petitioner filed an application seeking to stay the operation of the order, dated 12.03.2021, passed by the learned Chief Judicial Magistrate, Tiruppur. The above application has been dismissed by the Debt Recovery Tribunal, by an order dated 16.07.2021. Now, challenging that order, the present Revision has been filed, under Article 227 of the Constitution of India.

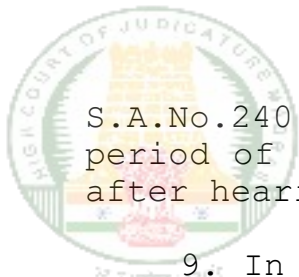
4. Mr.S.Rengasamy, the learned counsel appearing for the petitioner would contend that the proceedings initiated under Section 14 of the Act is civil in nature. In the said circumstances, the petitioner can maintain the revision before this Court. In support of his contention, the learned counsel also relying upon the Judgment of the Hon'ble Supreme Court in **Sesh Nath Singh Vs. Baidyabati Sheoraphuli Co-operative Bank Ltd.**, reported in (AIR 20021 SC 2637).

5. We have heard the learned counsel for the petitionoer and perused the materials available on record.

6. The order passed by the Debt Recovery Tribunal is sought to be challenged in this Revision. Admittedly, against the order passed by the Debut Recovery Tribunal under Section 17, only an appeal lies under Section 18 of the Act before the Appellate Tribunal. When an effective alternative remedy is available to the petitioner by way of filing appeal before the Debt Recovery Appellate Tribunal, without resorting such remedy, the petitioner cannot maintain the present Civil Revision Petition, before this Court, under Article 227 of the Constitution of India. Hence, we are of the considered opinion that the Revision is not maintainable and the same is liable to be dismissed. However, liberty is granted to the petitioner to approach the Debt Recovery Appellate Tribunal and file a necessary application challenging the order.

7. At this juncture, the learned counsel for the petitioner would submit that, since the appeal is pending with the Debut Recovery Tribunal for long time, the Debt Recovery Tribunal, Madurai, may be directed to dispose of the appeal within a reasonable time.

8. Considering the above submissions, the Debt Recovery Tribunal is directed to consider the petitioner's appeal filed in



S.A.No.240 of 2021 and dispose of the same, on merits, within a period of six weeks from the date of receipt of copy of this order, after hearing the petitioner and other interest parties.

9. In the Result, the Civil Revision Petition is dismissed. No costs.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mpk

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Debt Recovery Tribunal,
Madurai.
2. The Chief Judicial Magistrate /
The District Magistrate,
District Court Complex,
Tirupur.

C.R.P (MD) No.1379 of 2021
23.09.2021

PS (CO)

KB(06.10.2021) 3P 3C