



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.NO.2563 OF 2022
AND
W.M.P.NO.2686 OF 2022

K.Ravi

.. Petitioner

vs.

1. Reliance Asset Reconstruction Company Ltd.
Acting as the Trustee of SBI Bank, RARC-034 Trust,
Reliance Centre (North Wing),
6th Floor, Western Express Highway,
Santa Cruz (East), Mumbai - 400 055.
Also at No.5, Reliance House
Haddows Road 4th Floor,
Nungambakkam, Chennai - 600 008.
2. M/s.Ranjith Electricals,
Rep. by its Partner T.R.Pandian,
Flat # 1, Man Mandir Flat,
Plat No.1, Balaji Nagar Extn.
New Perungalathur, Chennai - 600 063.
3. T.R.Pandian
4. T.R.Mahadeven
5. T.R.Ellappan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records relating to the order dated 22.12.2021 in Criminal M.P. No.5693 of 2020 on the file of Chief Metropolitan Magistrate, Egmore, chennai -8 and quash the same.

For Petitioner : Mr.AR.L.Sunderesan,
Senior Counsel
For Mr.AL.Gandhimathi



O R D E R

(Order of the Court made by M.DURAISWAMY, J.)

WEB COPY The petitioner has filed the above Writ Petition to issue a Writ of Certiorari to call for the records relating to the order dated 22.12.2021 in Criminal M.P. No.5693 of 2020 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai and to quash the same.

2. The petitioner has challenged the order passed under section 14 of the SARFAESI Act, without exhausting the alternative remedy available to him under section 17 of the SARFAESI Act.

3.1. The Hon'ble Supreme Court of India, in the judgments reported in 2018 (3) Supreme Court Cases 85 [Authorized Officer, State Bank of Travancore and another Vs. Mathew K.C.], and 2018 (1) Supreme Court Cases 626 [Agarwal Tracom Private Limited Vs. Punjab National Bank and others] 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.

3.2 In a decision of the Hon'ble Supreme Court dated 05.10.2018 in ICICI Bank Limited v. Umakanta Mohapatra, Civil Appeal Nos.10251 - 10265 of 2018 arising out of SLP (C) Nos.16758 - 16772 of 2015, the Supreme Court has referred to the decision in Authorized Officer, State Bank of Travancore and Anr. vs. Mathew K.C., (2018) 3 SCC 85 and has observed that despite several judgments, including the decision of Mathew K.C., supra, the High Courts continue to entertain matters which arise under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI') and keep granting interim orders in favour of persons who are Non-Performing Assets. Further, the Apex Court 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.

4. The ratio laid down by the Hon'ble Apex Court in the above referred judgments is applicable to the present case.

5. Since the petitioner has filed the Writ Petition without exhausting the alternate remedy available to him under section 17 of the SARFAESI Act, we are not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed.



However, it is open to the petitioner to challenge the impugned under section 17 of the SARFAESI Act, in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Rj

To

Reliance Asset Reconstruction Company Ltd.
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Also at No.5, Reliance House
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Nungambakkam, Chennai - 600 008.

Copy To

The Section Officer,
ER Section,
High Court, Madras.

(To return the certified copy of the impugned order
to the learned counsel for the petitioner)

+1cc to M/s.AL.Gandhimathi, Advocate, S.R.No.11181

W.P.No.2563 of 2022
and W.M.P.No.2686 of 2022

RR(CO)
RLP(02/03/2022)