



C.R.P.(PD)No.1700 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2024

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.R.P.(PD)No.1700 of 2020

K.S.Vijayan

: Petitioner

versus

The Authorised Officer,
M/s.Central Bank of India,
Saravanampatti Branch,
S.F.No.114/1B & 1C,
Industrial Estate Road,
Athipalayam Pirivu,
Ganapathy, Coimbatore – 641 006.

: Respondent

Prayer: Petition is filed under Article 227 of the Constitution of India against the order dated 17.02.2020 in S.A.SR.No.11978 of 2019 on the file of the Debts Recovery Tribunal, Coimbatore.



C.R.P.(PD)No.1700 of 2020

WEB COPY

For Petitioner : Mr.K.J.Parthasarathy
Mr.R.Siva

For Respondent : Mr. M.L.Ganesh

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The petition is impugning an order dated 17.02.2020 passed by the Debts Recovery Tribunal (DRT) at Coimbatore rejecting the securitisation application filed by petitioner on the ground that it has been filed after the expiry of 45 days, which is the time limit prescribed under Section 17 of the SARFAESI Act.

2. We agree with petitioner's contention that the relief sought in the SA is in two parts: one is to declare the sale notice dated 21.09.2019 as illegal and invalid; and second is to declare the sale held on 29.10.2019 as invalid. The DRT has proceeded to reject the application as time barred only with regard to the first prayer to declare the sale notice dated 21.09.2019 as invalid. Counsel for petitioner has fairly submitted that the challenge to sale notice dated 21.09.2019 was time barred, but as regards the setting aside of the sale held on 29.10.2019, the same was within limitation. We have examined the documents and, in our view, the



C.R.P.(PD)No.1700 of 2020

application was filed within 44 days of 29.10.2019 and hence would be within limitation.

3. Shri.M.L.Ganesh submitted that the entire challenge before the DRT itself is an exercise in futility. An order under Section 14 of the SARFAESI Act was passed four years ago and even physical possession has been given to the auction purchaser, account has been closed and sale deed was also registered in favour of the auction purchaser. Shri Ganesh further submitted that even mutation has been effected. Therefore, no purpose would be served in setting aside the impugned order and giving an opportunity to petitioner to agitate the matter before the DRT on merits.

4. In our view, the bank may raise all these points mentioned before us before the DRT. The challenge in the petition is only to the rejection of the SA keeping in mind the sale notice dated 21.09.2019. Counsel for petitioner states that they would not press the challenge to the sale notice dated 21.09.2019 and will restrict the SA to the sale held on 29.10.2019.

Page 3 of 5



C.R.P.(PD)No.1700 of 2020

WEB COPY

5. In view of the statement made by petitioner, we quash and set aside the order dated 17.02.2020 to the extent that SA was beyond limitation. The SA before the DRT is restored to file. The DRT will consider the matter on merits and pass appropriate orders in accordance with law.

6. We clarify that we had not made any observation on the merits of the stand taken by petitioner in SA filed before the DRT.

7. Petition is disposed of. There shall be no order as to costs.

(K.R.SHRIRAM, CJ.)

(SENTHILKUMAR RAMAMOORTHY,J.)

04.10.2024

Index : Yes/No

Neutral Citation : Yes/No

kj

To

The Debts Recovery Tribunal, Coimbatore.

Page 4 of 5



WEB COPY



C.R.P.(PD)No.1700 of 2020

THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY,J.

kj

C.R.P.(PD)No.1700 of 2020

04.10.2024