IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

Rev.Aplw.No.220 of 2024

and

W.M.P.No.39514 of 2024

The Secretary
Department of Financial Services
Ministry of Finance
3rd Floor, Jeevan Deep Building
Sansad Marg, New Delhi – 110 001. ... Applicant

vs.

1. The Comfort Inn
rep. By its Managing Partner
Mr.V.Lakshmi Ramanan

2. V.Lakshmi Ramanan
S/o.R.Venkateswaran

3. The Authorized Officer
Indian Overseas Bank
Regional Office, Salem-4.

4. The Branch Manager
Indian Overseas Bank

Tiruchengodu
Namakkal District.

5. The Registrar
Debt Recovery Appellate Tribunal (DRAT)
7th Floor, Additional Office Building
Shastri Bhawan
Haddows Road, Chennai-600 006.

6. The Technical Director
Project Monitoring Unit – National Informatics Centre
(PMU-NIC) e-DRT
National Informatics Centre
A-Block, CGO Complex
Lodhi Road, New Delhi-110 001. … Respondents

Review Application filed under Article 226 of the Constitution of India read with Section 114 and Order XLVII Rule 1 of CPC, 1908, praying to review the order dated 10.07.2024 passed in W.P.No.10039 of 2024 and allow the review petition filed by the petitioner herein and dismiss W.P.No.10039 of 2024.

For Applicant : Mr.AR.L.Sundaresan
Additional Solicitor General
assisted by
Mr.AR.Sakthivel
Senior Panel Counsel

For Respondents : Mr.P.Tamilavel, for R1 and R2
R3 to R5 – No representation
R6 – Not ready in notice

*****

ORDER

[Made by **S.M.SUBRAMANIAM, J.,**]

The present review application has been instituted by the Secretary, Department of Financial Services, seeking review of the order of this Court dated 10.07.2024 passed in W.P.No.10039 of 2024. The review petition has been filed mainly on the ground that the basis on which the writ petition considered, is that there was a technical problem in filing the miscellaneous appeal before the Debt Recovery Appellate Tribunal, [hereinafter "DRAT" for the sake of brevity] is factually incorrect.

2. Mr.AR.L.Sundaresan, learned Additional Solicitor General, in this regard, would submit that on verification, it was found that no technical glitch had arisen during the relevant point of time before the DRAT. Since a manifest factual error had occurred, resulting in the passing of the order, the present review application has been instituted. It is further contended that the proceedings initiated under SARFAESI Act are not amenable to the writ jurisdiction under Article 226 of the Constitution of India.

3. The learned counsel for the respondents 1 and 2 would strenuously contend that the appeal filed by the respondents 1 and 2 was not accepted through online mode and that a representation submitted to the Registrar, DRAT was not addressed and therefore, the respondents 1 and 2 filed the writ petition seeking appropriate relief.

4. A perusal of the order sought to be reviewed would show that a direction was issued to the Technical Director, Project Monitoring Unit – National Informatics Centre, (PMU-NIC) e-DRT, to rectify the technical problem said to have occurred while filing the miscellaneous appeal as against the order of the Debt Recovery Tribunal [hereinafter "DRT" for the sake of brevity]. Necessary modifications were directed to be done with the technical assistance and services of competent persons. The fourth respondent in the writ petition was also directed to consult the DRT and DRAT before doing the work to avoid any other technical issues in the e-portal with the existing practice / system that is in vogue.

5. In order to find correct facts, this Court directed the Registry, High Court, to secure instructions from the Registrar, DRAT, regarding the

allegation of technical glitches raised by the respondents 1 and 2. The Registrar, DRAT, informed the Registry, High Court, that all the appeals filed in compliance with prescribed procedures during the years 2024 and 2025 had been duly numbered and that there was no technical problem during the relevant point of time. In other words, all appeals filed in accordance with the Rules and Procedures were numbered and heard by the Bench. Only 48 cases filed recently during the year 2026 alone are under scrutiny. From the instructions given by the Registrar, DRAT, it is made clear that the allegation made by the respondents 1 and 2, during the hearing of the writ petition was incorrect and that the writ order was passed based on the wrong submission of the respondents 1 and 2 that there was a technical problem in filing the miscellaneous appeal as against the order of the DRT before the DRAT.

6. The learned Additional Solicitor General would further contend that the writ petition was filed in order to circumvent the statutory pre-deposit to be made under the Act. More specifically, the prescribed Court fee is required to be paid along with the appeal and thereafter, the pre-deposit is to be made in compliance with the proviso to Section 18 of SARFAESI Act. In order to avoid such pre-deposit for entertaining the

appeal, writ petitions are being filed before the High Court on one ground or another.

7. In respect of the said contention, there is no ambiguity as Section 18 of the SARFAESI Act, deals with appeals to the Appellate Tribunal, which clearly states that any person aggrieved by any order made by the DRT under Section 17 may prefer an appeal along with the said fee as may be prescribed to the Appellate Tribunal within 30 days from the date of receipt of the order of the DRT. Therefore, along with appeal papers prescribed fee must be paid.

8. First proviso to Section 18(1) states that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower. Therefore, prescribed fee is required to be paid by every person preferring an appeal under Section 18(1) of the SARFAESI Act.

9. Second proviso to Section 18(1) states that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty percent of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal,

whichever is less. Thus, the Statute makes it clear that deposit of 50% of the debt due is a pre-condition for entertaining the appeal.

10. Third proviso to Section 18(1) states that Appellate Tribunal may, for the reasons to be recorded in writing reduce the amount to not less than twenty-five percent of debt referred to in the second proviso.

11. Under certain mitigating circumstances, the power of discretion is conferred on the Appellate Tribunal to reduce the amount of pre-deposit to be made along with the appeal. Such power of discretion is to be exercised judiciously and by recording reasons in writing.

12. To summarize, Section 18(1) contemplates that an appeal is to be filed along with the prescribed fee and that, before entertaining such an appeal, 50% of the amount of debt due is to be deposited. If any petition is filed for reduction of deposit, the Appellate Tribunal is empowered to consider the same and reduce the amount not less than 25% by recording reasons.

13. Pertinently, the practice of filing writ petitions against the SARFAESI proceedings has been severely criticized by Hon'ble Supreme Court in several judgments. The High Court is not expected to entertain writ petitions relating to disputes arising out of SARFAESI proceedings when the DRT and DRAT are functioning. An aggrieved person is bound to approach the Tribunal for redressal of grievances and in such matters, the jurisdiction of the High Court is ousted.

14. In the case of ***Celir LLP Vs. Bafna Motors (Mumbai) Private Limited and others*** reported in ***2024 2 SCC 1***, Hon'ble Supreme Court in paragraph Nos.97, 98, 110 and 110.1 held as follows:

> *"97. This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI Act. This Court in Satyawati Tondon [United Bank of India v. Satyawati Tondon, (2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260] made the following observations : (SCC pp. 123 & 128, paras 43-45 & 55)*
>
> *"43. Unfortunately, the High Court [Satyawati Tondon v. State of U.P., 2009 SCC OnLine All 2608] overlooked the*

settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint *evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.*

*45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance. *** 55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."*

98. In CIT v. Chhabil Dass Agarwal [CIT v. Chhabil Dass Agarwal, (2014) 1 SCC 603] , this Court in para 15 made the following observations : (SCC p. 611, para 15) "15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the *provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [Thansingh Nathmal v. Supdt. of Taxes, 1964 SCC OnLine SC 13] , Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."*

110. We summarise our final conclusion as under:

110.1. The High Court was not justified in exercising its writ jurisdiction under Article 226 of the Constitution more particularly when the borrowers had already availed the alternative remedy available to them under Section 17 of the SARFAESI Act."

15. Therefore, writ against SARFAESI proceedings are not maintainable before the High Court and the efficacious remedy contemplated under the Act is to be exhausted.

16. In the present case, the writ petition itself was filed on the ground that the appeal filed by the respondents 1 and 2 was not taken on file by the DRAT due to technical problems. On verification from the DRAT, it was found that no such technical glitches existed during the relevant point of time.

17. Even assuming that any difficulty had arisen in filing or numbering the appeal, the respondents 1 and 2 are expected to approach the Registry of the Tribunal for appropriate relief. Therefore, the directions issued by this Court vide order dated 10.07.2024 in W.P.No.10039 of 2024, which is now sought to be reviewed were based on wrong facts and erroneous submissions made on behalf of the respondents 1 and 2, which is to be construed as an error apparent warranting exercise of the review jurisdiction by this Court.

18. Accordingly, the order dated 10.07.2024 made in W.P.No.10039 of 2024 is recalled and the Review Application stands allowed. However, the respondents 1 and 2 are at liberty to approach the Registry of the Tribunal for appropriate relief. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(S.M.S.,J.) (N.S.,J.)
09.06.2026

Index : Yes
Neutral Citation : Yes
Speaking order

mk

S. M. SUBRAMANIAM, J.,
and
N.SENTHILKUMAR, J.,

mk

Rev.Aplw.No.220 of 2024

and

W.M.P.No.39514 of 2024

09.06.2026