WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10/06/2026

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CRP(PD)(MD). No.2706 of 2015
and
M.P(MD).Nos.1 and 2 of 2015
and
C.M.P(MD).No.11981 of 2022

P.Gnanasekaran, ... Petitioner

Vs

1. The Authorized Officer,
Vijaya Bank Now Amalgamated With Bank of Baroda
Door No. 76,
West Avani Moola St.Madurai,
Now at West Masi Street,
Madurai.
(*Amended Vide Court Order dated 12.02.2021 made in C.M.P(MD).No.969 of 21 in CRP(MD).No.2706 of 2016)*

2. S.Parivendhan,
3. Indira,
4. T. Ponniya Pillai,,
5. T. Shanmugampillai, ... Respondents

PRAYER :- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for records and set aside the order

https://www.mhc.tn.gov.in/judis

WEB COPY

dated 26.06.2015 passed in the SARFAESI Appeal in S.A.S.R.No.3082 of 2023 on the file of the Debts Recovery Tribunal, Madurai and allow the same.

For Petitioner : Mr.J.Barathan
For R1 : Mr.K.Muralidharan

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

This Civil Revision Petition has been filed under Article 227 of the Constitution of India, challenging the order passed by the Debts Recovery Tribunal, Madurai in S.A.S.R.No.3082 of 2013 dated 26.06.2015, dismissing the application filed by the petitioner as not maintainable.

2. We have heard, Mr.J.Barathan, learned counsel for the petitioner and Mr.K.Muralidharan, learned counsel for the first respondent.

3. The case of the petitioner is that he is the absolute owner of the subject property by virtue of a sale deed dated 23.06.1995. The subject matter of the property is 3-1/2 cents in Survey No.21/4B2. The first

https://www.mhc.tn.gov.in/judis

WEB COPY

respondent bank initiated proceedings under the SARFAESI Act against one T.Ponnaiya Pillai and T. Sanmugam Pillai, who are the 4 and 5th respondents herein, on the ground that they had borrowed money from the bank and did not repay it back and therefore, their bank account was brought under NPA and proceedings were initiated under the SARFAESI Act for recovery. In the said process, the first respondent bank after issuing notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act") to the borrowers, took further steps to take symbolic possession of the properties under Section 13(4) of the SARFAESI Act. Under the said process, the petitioner claims that his property was also included.

4. The petitioner aggrieved by the same filed a SARFAESI appeal under Section 17 of the SARFAESI Act, before the Debts Recovery Tribunal, Madurai, challenging the entire proceedings of the first respondent bank as null and void and to restore the symbolic possession taken by the Bank.

https://www.mhc.tn.gov.in/judis

WEB COPY

5. The SARFAESI appeal filed by the petitioner was not numbered. But however, the Tribunal permitted the first respondent bank to file a counter and it heard the arguments on both sides and rejected the SARFAESI appeal at the SR stage as not maintainable, since it is barred by limitation. Aggrieved by the same, the present Civil Revision Petition has been filed before this Court.

6. The main ground that was urged by the learned counsel for the petitioner is that even a third party can maintain the SARFAESI application before the Debts Recovery Tribunal and that the Tribunal ought to have numbered the application and dealt with the same on merits and it ought not to have rejected the application at the SR stage as not maintainable.

7. Percontra, the learned counsel appearing on behalf of the first respondent bank questioned the maintainability of the present Civil Revision Petition on the ground that the petitioner has an efficacious alternative remedy of appeal available under Section 18 (1) of the SARFAESI Act. The learned counsel further submitted that even if a

https://www.mhc.tn.gov.in/judis

WEB COPY

SARFAESI application filed by the third party is maintainable, if the same is barred by limitation, the same can always be rejected by the Tribunal. Hence, the Tribunal has rejected the application on the ground that the application is barred by limitation and if the petitioner is aggrieved, the petitioner should only file an appeal before the Debts Recovery Appellate Tribunal (DRAT) and the present Civil Revision Petition is not maintainable.

8. We have carefully considered the submissions made on either side and the materials available on record and we have also carefully gone through the order passed by the Tribunal.

9.This Court will first deal with the issue of maintainability raised by the learned counsel for the first respondent bank. It is true that when there is an effective alternative remedy of appeal available, this Court should refrain itself from exercising its jurisdiction either under Article 226 or under Article 227 of Constitution of the India. The Apex Court has also repeatedly held that in matters arising out of SARFAESI Act,

https://www.mhc.tn.gov.in/judis

WEB COPY

the Court should not exercise its jurisdiction when there is an effective alternative remedy available. Hence, we are completely aware of the self imposed restraint that has to be applied while entertaining the Revision under Article 227 Constitution of India against the order passed by the Debts Recovery Tribunal.

10. In the case in hand, the Debts Recovery Tribunal, Madurai, has rejected the petition even at the SR stage, without numbering the application and has dealt with the application in detail on merits. This procedure that has been adopted by the Debts Recovery Tribunal is illegal and therefore, this Court while exercising its jurisdiction under Article 227 of constitution of India, can certainly exercise its superintending jurisdiction and correct the illegality committed by the Tribunal. We are not dealing with the merits of the case in the present Civil Revision Petition and we are only testing the manner in which the Tribunal had dealt with the SARFAESI application filed by the petitioner.

https://www.mhc.tn.gov.in/judis

WEB COPY

11. In sofar as the maintainability of an application filed by the third party, it is now well settled that any person can maintain an application under Section 17 of the SARFAESI Act. Therefore, there is no bar for the petitioner who is claiming exclusive right over the subject property to maintain an application against the proceedings initiated under Section 13(4) of the SARFAESI Act. If that be so, the Tribunal should have numbered the application and heard the application on merits and passed orders and the application ought not to have been rejected as not maintainable at the SR stage. We are consciously not going into the merits of the case, since we are inclined to interfere with the order passed by the Tribunal and remit the matter back to the tribunal to hear the application on merits.

12. In the light of the above discussion, the order passed by the Debts Recovery Tribunal, Madurai, in S.A.S.R.No.3082 of 2023 dated 26.06.2015 is hereby set aside. The matter is remitted back to the file of the Debts Recovery Tribunal with a direction to the tribunal to number the SARFAESI application and thereafter, proceed further to deal with the application on merits after affording opportunity to all parties

https://www.mhc.tn.gov.in/judis

WEB COPY

concerned. While undertaking this exercise, it will also be open to the Debts Recovery Tribunal, to go into the issue of limitation and decide the same on merits and in accordance with law. Consequently, connected miscellaneous petitions are closed.

(N.A.V.,J..) **(K.K.R.K.,J.,)**

10.06.2026

Index : Yes / No
Internet : Yes / No

tta

To,
The Debts Recovery Tribunal,
Madurai.

https://www.mhc.tn.gov.in/judis

WEB COPY

N. ANAND VENKATESH,J.
AND
K.K.RAMAKRISHNAN,J.

TTA

ORDER
IN
CRP(MD) No.2706 of 2015

Date : 10/06/2026

https://www.mhc.tn.gov.in/judis