

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-CW-379-2020

Eric Menezes and Anr. ... Petitioners
Versus
The Authorised Officer and Anr. ... Respondents

Mr. V.A. Lawande, Advocate for the petitioners.

Mr. A. Sinai Borkar, learned Advocate for the respondent Nos.1 and 2(Bank).

**Coram:- M. S. SONAK &
SMT. M. S. JAWALKAR, JJ.**

Date:- 14th December, 2020.

P.C.:

Heard Mr. V.A. Lawande, learned Advocate for the petitioner and Mr. A. Sinai Borkar, learned Advocate for the respondent Nos.1 and 2(Bank).

2. After having heard the learned Counsel for the parties we are satisfied that the petitioners have alternate and efficacious remedy available to them before the Debt Recovery Tribunal(DRT). Therefore, we feel that it would not be appropriate for this Court to entertain the present petition.

3. Mr. Lawande, learned Counsel further refers to the decision of the Hon'ble Punjab and Haryana High Court in the case of *M/s A-One Mega Mart P. Limited vs Hdfc Bank and Another* reported in [2012(0) Supreme (P & H) 1086] and *Mathew Verghese V/s M. Amritha Kumar* reported in [2014(5) SCC 610]. He submits that in this case the action of the respondent-Bank is without jurisdiction particularly since the statutory notice for the minimum prescribed time has not been given to the petitioners and there is also total under valuation of the assets which are now sought to be sold by the Bank.

4. Ruling in *A-One Mega Mart P. Limited* (supra), was in the context of implementation of a one time settlement scheme of a private bank and the issue was whether the Court can condone the delay and thereafter direct the Bank to implement the scheme. Besides, this decision was rendered prior to several ruling of Hon'ble Apex Court requiring the High Court to relegate the parties to the DRT by holding that the remedy available before the DRT affords efficacious remedy in such matters.

5. In *Mathew Verghese* (supra), there are certain observations with regard to the importance of issuance of notices in terms of

the provisions of the SARFAESI Act, 2002. However, such contentions can always be raised before the DRT and it is for the DRT to examine whether there is any breach of the statutory provisions as alleged by the petitioners.

6. Therefore, we dismiss this petition by granting the petitioners liberty to take out appropriate proceedings before the DRT or any other authority in terms of the law. We clarify that we have not gone into merits of the rival contentions and therefore, it will be for the DRT or such other authority which the petitioners may choose to approach to go into such rival contention on their own merits and in accordance with law.

7. This petition is disposed of in the aforesaid terms. There shall be no order as to costs.

8. All concerned to act on the basis of an authenticated copy of this order.

SMT. M. S. JAWALKAR, J.

M. S. SONAK, J.