

In the High Court of Judicature at Madras

Reserved on : 08.06.2015
Dated : 11.06.2015

Coram:

The Hon'ble Mr.Justice SATISH K. AGNIHOTRI
and
The Hon'ble Mr.Justice M.VENUGOPAL

W.P.No.11849 of 2015
and
M.P.No.1 of 2015

N.Subhash Chand Jain ... Petitioner

Vs.

1.The Authorized Officer,
Indian Overseas Bank,
No.477, Kilpauk Garden Road,
Kilpauk, Chennai-6010.

2.C.Ravindran

3.C.Surendaran

4.R.Rajasekaran

5.Shanthi Sivasamy

6.Rajarajan

7.S.Kalpana

8.S.Karthik

9.R.Sivasakthi

10.R.Abirami

11.R.Rajalakshmi

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of Certiorari and Mandamus, calling for the records culminated in the order dated 04.03.2015 in MA(SA) No.14 of 2015 on the file of the Hon'ble Debt Recovery Appellate Tribunal and to quash the same by allowing the MA(SA) No.14 of 2015 to transfer the SA.No.227 of 2012 pending on the file of the Learned Debt Recovery Tribunal-III, Chennai to any other Debt Recovery Tribunal at Chennai.

For Petitioner : Mr.K.S.Sankhar Murali

For Respondent-1 : Ms.M.Sangeetha
for Mr.F.B.Benjamin George

For Respondent : Mr.AR.L.Sundaresan, SC

Nos.2 to 11

for M/s.Ajmal Azzath &
G.Krishnakumar

O R D E R

[Order of the Court was made by
M.VENUGOPAL, J.]

The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court in calling for the records relating to the order dated 04.03.2015 in MA(SA) No.14 of 2015 passed by the Debt Recovery Appellate Tribunal, Chennai and to quash the same by allowing the MA(SA) No.14 of 2015 to transfer the SA.No.227 of 2012 pending on the file of the Debt Recovery Tribunal-III, Chennai to any other Debt Recovery Tribunal at Chennai.

2.The Learned Debt Recovery Appellate Tribunal while passing the impugned order in M.A.(SA) No.14 of 2015 (S.A.No.227 of 2012 on the file of Debt Recovery Tribunal-III, Chennai) on 04.03.2015 had in para 3 observed the following:

"Heard both sides. Considering the objections as a whole, this Court does not venture to express any opinion regarding any of the issues argued before this Court. One thing this Court wants to mention to the DRT is that the Hon'ble High Court has passed order in CRP regarding the sale of the property. It appears that the Schedule A and C properties alone were sold in the Court auction on 20.07.2012 and confirmation was made on 21.07.2012 and Sale Certificate was issued by the respondent bank on 13.09.2012. Registration of the property also has taken place on 14.09.2012. Therefore, this Court venture to mention that the trial Court is directed to stop the proceedings till the disposal of the SLP pending before the Hon'ble Supreme Court and thereafter, the trial Court is directed to proceed with the matter as per the direction by the Hon'ble Supreme Court."

and resultantly, dismissed the transfer petition and further, stayed the trial of the suit till the disposal of the Special Leave Petition pending before the Hon'ble High Court.

3.According to the Learned counsel for the Petitioner, the petitioner had purchased the A & D schedule properties mentioned in the sale notice dated 20.07.2015 issued by the First Respondent/Authorized Officer of the Indian Overseas Bank, Kilpauk,

Chennai for a valuable and binding sale consideration. Further, the petitioner's bid was the highest amount among the bidders participated in the auction sale conducted by the Bank.

4.The Learned counsel for the Petitioner submits that the First Respondent/Bank had confirmed the sale on 21.07.2012 in favour of the Petitioner and issued sale certificate on 13.09.2012 and the sale was registered in his favour relating to A and D schedule properties mentioned in the sale notice dated 20.07.2012.

5.Advancing his arguments, the Learned counsel for the Petitioner contends that the Respondents 2 to 11 are the principal borrowers who on an earlier occasion filed Civil Revision Petition Nos.3487 & 3497 of 2012 against the order dated 12.09.2012 in I.A.No.437 of 2012 in S.A.227 of 2012 and against the conditional order dated 07.08.2012 in S.A.227 of 2012. Moreover, the said civil revision petitions were dismissed on merits on 29.07.2013.

6.Apart from that, the Respondents 2 to 11 filed Special Leave Petition (Civil) Nos.28402 & 28403 of 2013 before the Hon'ble Supreme Court of India.

7.Expatiating his submission, the Learned counsel for the Petitioner proceeds to state that the Debt Recovery Tribunal-III, Chennai posted the case S.A.No.227 of 2012 on 22.01.2015 for settlement if any and that the petitioner informed that there was no settlement with Respondents 2 to 11 and the Learned Presiding Officer of the Tribunal posted the S.A.No.227 of 2012 for orders inspite of the representation made by the First Respondent Bank counsel that the Hon'ble Supreme Court took cognizance of the matter. Indeed, a representation was also made on behalf of the Petitioner that there cannot be any two parallel proceedings in respect of the very same subject matter.

8.The main grievance of the Petitioner is that the Learned Presiding Officer of the Debt Recovery Tribunal-III, Chennai repeatedly pressurised him the quantum of the amount required by him to give up the properties purchased in the auction sale conducted by the First Respondent/Bank. Further, he made a request before the Learned Presiding Officer of the Debt Recovery Tribunal-III, Chennai to the effect that the Respondents 2 to 11 had miserably failed to comply with the conditional order dated 07.08.2012 passed by the Tribunal in directing the payment of Rs.4.80 crores on or before 07.09.2012 which was not properly heeded to.

9.The Learned counsel for the Petitioner vehemently submits that the Learned Presiding Officer, Debt Recovery Tribunal-III, Chennai went on saying that the Petitioner would be suitably

compensated ignoring the earlier orders passed by the Tribunal. As such, it is represented on behalf of the Petitioner that the Petitioner lost all his hopes to the effect that he would not get any fair justice before the said Tribunal. Furthermore, the Learned Presiding Officer of the Debt Recovery Tribunal-III, Chennai ought not to have reserved the orders when especially Special Leave Petitions filed by the Respondents 2 to 11 were pending before the Hon'ble Supreme Court of India.

10. At this stage, the Learned counsel for the Petitioner brings it to the notice of this Court that the First Respondent/Bank has filed an application to re-open the case as no opportunity was given to put-forth its claim. Therefore, the Petitioner was left with no other option but to file a "transfer petition/application" and accordingly, filed M.A.(SA) No.14 of 2015 before the Debt Recovery Appellate Tribunal.

11. It is to be noted that the Learned Appellate Authority Tribunal by an order dated 04.03.2015 ultimately dismissed the MA (SA) No.14 of 2015 but made an observation that the trial of S.A.No.227 of 2012 on the file of the Debt Recovery Tribunal-III, Chennai was stayed till the disposal of the Special Leave Petitions before the Hon'ble Apex Court.

12. The primordial submission of the Learned counsel for the Petitioner is that since the Learned Presiding Officer of the Debt Recovery Tribunal-III, Chennai had predetermined the subject matter and acted in a most unbiased manner, the Petitioner had filed the transfer application in question.

13. It is to be borne in mind that the Special Leave Petitions filed by the Respondents 2 to 11 were permitted to be withdrawn by the Hon'ble Supreme Court on 17.04.2015 and further, the Hon'ble Supreme Court observed that since the Special Leave Petitions were withdrawn, there was no impediment for the Tribunal to pass final orders.

14. It transpires that the Learned Debt Recovery Appellate Tribunal, Chennai on 04.03.2015 in MA(SA) No.14 of 2015 (SA.227 of 2012 on the file of the Debt Recovery Tribunal-III, Chennai) had ultimately passed order by dismissing the transfer petition, of course, by making an observation that the suit was stayed till the disposal of the Special Leave Petitions pending before the Hon'ble Apex Court.

15. During the course of hearing of the present Writ Petition, it comes to be known that the Petitioner sought to file an additional counter before the Debt Recovery Tribunal-III, Chennai

in the SA.No.227 of 2012 but the same was returned by the Tribunal on 22.01.2015 and later, it was represented on 03.06.2015. Also, it is brought to the notice of this Court that the Learned Debt Recovery Tribunal had reserved orders in S.A.227 of 2012 on 28.04.2015.

16.As far as the present case is concerned, this Court has examined the entire gamut of the attendant circumstances of the instant case in a careful, considerate, dispassionate and objective manner.

17.On going through the contents of the impugned order passed by the Learned Debt Recovery Appellate Tribunal, Chennai in MA(SA) No.14 of 2015 (SA.227 of 2012 on the file of Debt Recovery Tribunal-III, Chennai), this Court does not find any material irregularity or patent illegality or legal infirmity in the Eye of Law. However, this Court on the basis of the facts and circumstances of the present case which floats on the surface and also considering the stand taken by the Petitioner as well as the First Respondent/Bank, this Court in the interest of justice, Fair Play, Equity, Good conscience and even as a matter of Prudence directs the Learned Debt Recovery Tribunal-III, Chennai to take into consideration, the additional counter represented on the Petitioner's side on 03.06.2015 and also to consider the petition/application filed by the First Respondent/Bank to reopen the case by providing opportunities to the respective parties or their counsels by adhering to the Principles of Natural Justice in hearing them and to pass a reasoned speaking final order in S.A.NO.227 of 2012 in a just, fair, purposeful, pragmatic and practical fashion on merits in the manner known to law and in accordance with law as expeditiously as possible, of course, by outlining the process of reasoning in a qualitative and quantitative manner and that too, untrammelled and uninfluenced with any of the observations made by this Court in this Writ Petition.

18.With the above said observations and directions, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar

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To

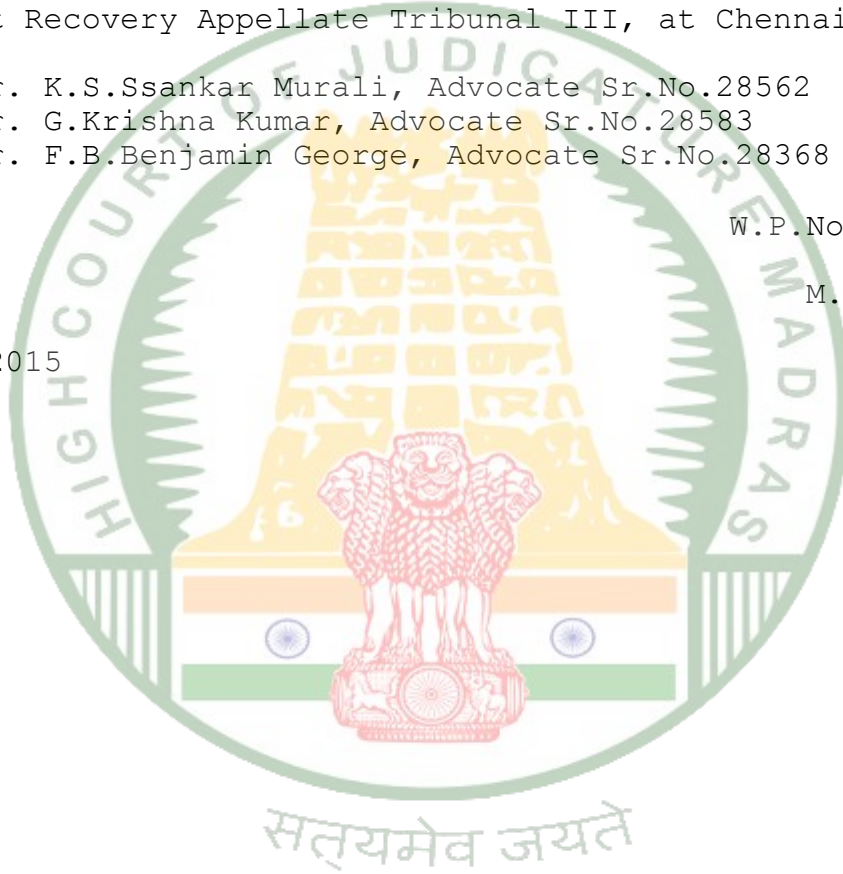
1.The Authorized Officer,
Indian Overseas Bank,
No.477, Kilpauk Garden Road,
Kilpauk, Chennai-6010.

2.The Debt Recovery Appellate Tribunal III, at Chennai.

1 cc to Mr. K.S.Ssankar Murali, Advocate Sr.No.28562
1 cc to Mr. G.Krishna Kumar, Advocate Sr.No.28583
1 cc to Mr. F.B.Benjamin George, Advocate Sr.No.28368

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