

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

C.R.P. No.2322 of 2015
and
M.P.No.1 of 2015

1.Vijayalakshmi
2.Suresh Babu

... Petitioners

Vs.

1.The South Indian Bank Ltd.,
Gopanur Branch,
Negamam (P.O),
Coimbatore-642 120.
2.K.Paramanandham
3.S.Kandasamy
4.Pushpa
5.Balu
6.Sivabagyan

... Respondents

The civil revision petition is filed under Article 227 of the Constitution of India against the order passed by the Debt Recovery Appellate Tribunal made in M.A.No.66 of 2014, dated 17.04.2014 made against the order of the DRT, Coimbatore, I.A.No.879 of 2007 in OA No.289 of 2002 dated 10.01.2008.

For petitioners : Mrs.Narmadha Sampath

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The petitioners claiming to having interest in the schedule property, submits that the Debts Recovery Tribunal (for short "D.R.T."), without impleading the petitioners herein as party respondents, passed an order in favour of the bank in O.A.No.289 of 2002 and ordered to issue recovery certificate, by order dated 29th October, 2004.

2. The second and third respondents herein, who were defendants before the D.R.T., Coimbatore and the petitioners before the Debt Recovery Appellate Tribunal (for short DRAT), Chennai in M.A.No.66 of 2014, made an application under Section 25(19) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, being I.A.No.879 of 2007, seeking to condone the delay in representing the application. The D.R.T., by order dated 10th January, 2008, dismissed the application for condonation of delay, as not maintainable, on the ground that the recovery proceedings had been completed and the property had been sold. Thus, the second and third respondents herein filed an appeal, being M.A.No.66 of 2014. The learned Appellate Tribunal, without again impleading the present petitioners as party respondents, condoned the delay of 213 days in representing the application for setting aside the ex parte order. Being aggrieved, the petitioners are here.

3. The case of the petitioners before us is that the petitioners have substantial interest in the property in question, which has come into their possession in accordance with law. Thus the miscellaneous appeal filed by the respondents 2 and 3 ought not to have been entertained and the delay should not have been condoned.

4. We have examined the submissions advanced by the learned counsel for the petitioners and also perused the documents.

5. It is not clear how the petitioners have come into possession of the property in question. However, without delving into the merits of the case, since the delay in representing the application filed by second and third respondents herein has been allowed by the DRAT, the re-presentation application will be restored on the file of the D.R.T., Coimbatore in O.A.No.289 of 2002 and as such, the petitioners herein are entitled to make appropriate application and to establish their interest in the property before the D.R.T. If an application to this effect is made by the petitioners herein, the Tribunal is expected to consider the same on its own merit and in accordance with law, without being influenced by any observation made herein-above by us.

6. This civil revision petition stands disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vvk

To

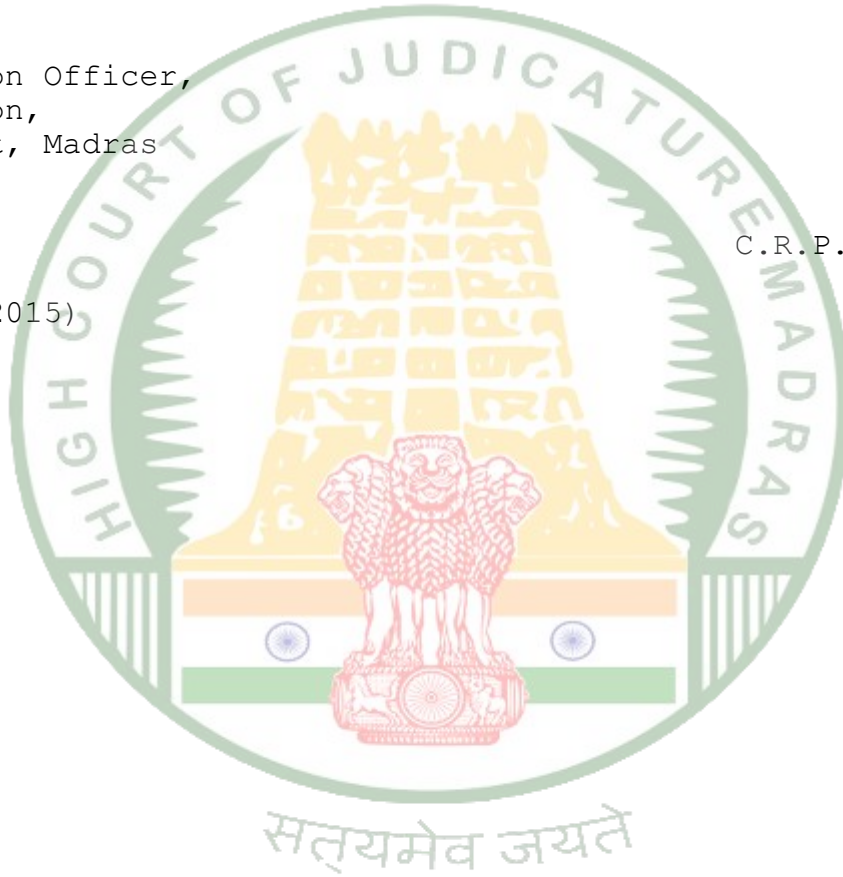
1. Debts Recovery Tribunal,
Coimbatore.
2. Debts Recovery Appellate Tribunal,
Chennai.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras

BR(CO)
CA(23/07/2015)

C.R.P. No.2322 of 2015



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