IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 9-7-2015

CORAM:

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

C.R.P.No.687 of 2014

M.P.No.1 of 2014 & 1 of 2015

M.R.Natarajan ...Petitioner

Vs.

1. Indian Bank,
   Krishnagiri Branch,
   rep.by its Zonal Manager, Zonal Office,
   Coimbatore.

2. M. Padmavathi Ammal
3. M.R. Srinivasan
4. M.R. Krishnan
5. Apsar Basha
6. P.K. Suresh
7. P.K. Sudhakar
8. P.K. Giridharan
9. P.K. Srikanth
10. P.K. Sankar
11. P. Prabakar
12. R. Mohan
13. K.S. Jaya Gowri
14. A.V. Srinivasan ...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order in I.A.No.33 of 2013 in A.I.R.No.1149 of 2012 in M.A.No.130 of 2012 in T.A.No.1 of 2010 on the file of Debt Recovery Appellate Tribunal, Chennai, dated 10.12.2013.

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For Petitioner : Mr.S.J.Jagadev

For 1st Respondent : Mr.P.V.Muralidhar

For 13th Respondents : No appearance

For 14th Respondent : Mr.V.Nicholas

O R D E R

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

The case of the petitioner before us is that the petitioner herein was impleaded as 12th respondent in T.A.No.1 of 2010 on the file of DRT-III, Chennai, (for short 'Tribunal') and without serving notice on him, the said application was decided exparte on 31.5.2012, fixing liability for recovery of a sum of Rs.15,56,114/- with interest at 12% with half yearly rest, from the date of filing of the suit till realisation, against all the defendants, including the petitioner, jointly and severally.

2. Being aggrieved, petitioner preferred an appeal under Section 18 before the DRAT and also filed an application in I.A.No.33 of 2013 for waiver of mandatory deposit as contemplated under Section 21 of the RDDBFI Act. It was clearly pointed out that the petitioner was not served with notice before passing the order in T.A.No.1 of 2010 and he came to know about the decision of the Tribunal only after pronouncement.

3. Heard the learned counsels appearing for the petitioner as well as first respondent herein, perused the pleadings and the material documents placed before us.

4. On perusal of the order of the Tribunal dated 31.5.2012, we find that the principal sum specified therein was Rs.15,56,114/- payable with interest at the rate of 12% per annum with half yearly rest from the date of filing of the suit till realisation. The DRAT has arrived at a specific figure of Rs.1,43,20,963/- and directed to deposit 50% of the said amount as requisite pre-deposit under Section 21 of the RDDBFI Act. How the DRAT came to that figure is not clear as the counter affidavit does not indicate any calculation in respect of interest or any other thing. The figure itself appears to be defective. Relying on the said figure, the DRAT directed to deposit a sum of Rs.71,60,482/-, being 50% of the said figure.

5. On analysing the above said facts, we are of the considered view that the figure of Rs.1,43,20,963/- arrived at by the

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appellate authority has no basis. Even otherwise, before rejecting the application for waiver, filed by the petitioner, the appellate authority is required to advert to all the issues raised by the petitioner in respect of non-service of notice, change of address, and if it is found that the petitioner was really ignorant of the proceedings and no step was taken on the part of the Bank to serve notice of hearing, case of the petitioner may be considered for complete waiver.

6. However, we are not inclined to pass any order on the application made by the petitioner for waiver. We set aside the order of the DRAT dated 10.12.2013 made in I.A.No.33 of 2013 and remit back the matter to the Appellate Tribunal to consider the entire case and pass a reasoned order as to whether the petitioner is entitled to full waiver or to reduce the amount of mandatory deposit. At this juncture, it is brought to our notice that the property has been put on auction sale, to be held on 16.7.2015. Hence, we direct that the auction proceedings may continue, however, the final sale shall not take place till a decision is taken by the DRAT.

The civil revision petition is disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

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Sub Assistant Registrar

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To

1. The Zonal Manager, Zonal Office,
Indian Bank, Krishnagiri Branch,Coimbatore.

2. The Debts Recovery Tribunal - III,
Chennai, 5th Floor, Spencer Towers,
770-A, Anna Salai, Chennai - 600 002.

1 CC to Mr.P.V.Muralidhar, Advocate SR.No. 34643
1 CC to Mr.V.Nicholas, Advocate SR.No. 34619
1 CC to Mr.S.J.Jagadev, Advocate SR.No. 34580

C.R.P. No.687 of 2014

EV (CO)PSI (14.07.2015)

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