

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2015

C O R A M

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. Nos.28305 and 28306 of 2015

a n d

M.P.Nos.1 and 1 of 2015

C.Mohan

...Petitioner in W.P.No.28305 of 2015

M.Vijayalakshmi

...Petitioner in W.P.No.28306 of 2015

Vs

1. The Authorised Officer,
Allahabad Bank
98, Mercricar Road
R.S.Puram, Coimbatore-641 002.

2. R.Sadiqulla

3. J.Mohammed Riaz

4. M.Zakkiya Banu

5. The Registrar,
Debts Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
55,Ethiraj Salai,
Chennai.

...Respondents in both writ petitions

Both writ petitions are filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorari to call for the records pertaining to the orders dated 27.08.2015 in R.A.(S.A) 16 of 2015 and in R.A.(S.A)15 of 2015 respectively on the file of the fifth respondent and quash the same.

For Petitioners : Mr.N.R.Chandran, Senior Counsel
for Mr.K.J.Parthasarathy
in both W.Ps.

For Respondents : Mr.K.S.Kaviarasu
for Mr.K.Vignesh Karthik for R-4
No appearance for RR1 to 3

COMMON ORDER

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

The challenge in these petitions is to the order dated 27th August, 2015 passed in RA(SA)16 of 2015 and RA(SA)15 of 2015 by the Debt Recovery Appellate Tribunal, Chennai, whereunder the interim order of stay granted earlier was directed to be vacated.

2 Shri N.R.Chandran, learned Senior Counsel appearing for the petitioners submits that the interim stay granted on 5th March, 2015 was vacated without assigning reasons. It is further contended that when the matter was taken up in the first round, a request was made to pass over the matter. Instead, the impugned orders, vacating the stay granted earlier were passed. The learned Senior Counsel would further urge that once the interim order has been granted, it is necessary to specify reasons for vacating the same. The Tribunal has passed the order, vacating the interim stay granted earlier without application of mind and also without assigning justifiable reasons for the same.

3 Notwithstanding the service of notice, all respondents, except 4th respondent, had chosen not to appear. The fourth respondent is represented through Mr.K.S.Kaviarasu, learned counsel representing Mr.K.Vignesh Karthik, learned counsel. He fairly submits that the matter may be sent back for reconsideration.

4 The issue involved herein is as to whether the interim orders granted earlier can be vacated in such a manner, whereunder no reasons have been specified. On the earlier occasion, i.e., 5th March, 2015, the first respondent was directed not to disturb the possession as the petitioners had deposited a sum of Rs.13,00,000/- out of Rs.17,07,909/- and a

proper detailed order was passed. Subsequently, the impugned orders were passed without assigning reasons.

5 We have perused the orders, which run into two sentences. It does not reflect as to what has transpired in the Court, which induced the learned Chairperson of the Debt Recovery Appellate Tribunal, Chennai to vacate the stay granted earlier. The interim order of stay granted earlier was not subject to any condition and also the impugned orders did not indicate that any condition imposed on the petitioners was violated, necessitating vacation of the interim stay granted earlier.

6 For the reasons mentioned herein-above, we set aside the impugned orders dated 27.08.2015 in R.A.(S.A) 16 of 2015 and R.A.(S.A)15 of 2015 respectively. It is directed that the stay order passed on 5th March, 2015 by the appellate tribunal shall be maintained. The matter is remitted back to the appellate tribunal to consider the case on merit expeditiously.

7 Resultantly, both writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Authorised Officer,
Allahabad Bank
98, Mercricar Road
R.S.Puram, Coimbatore-641 002.

2. The Registrar,
Debts Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
55, Ethiraj Salai, Chennai.

2 CCs to Mr.J.Arun Prasad, Advocate SR.No. 54444, 54445

2 CCs to Mr.K.J. Parthasarathy, Advocate SR.No. 54446, 54447

2 CCs to Mr.K.Vignesh Karthik, Advocate SR.No. 54431, 54431

W.P. Nos.28305 and 28306 of 2015

SVI (CO)
PSI (19.10.2015)



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