

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.39154 of 2015 and M.P. No.1 of 2015

1 A.I. Raj
2 A. Shanthi
3 Anandaraj

Petitioners

vs.

1 The Debts Recovery Tribunal - I
represented by its Registrar/
Presiding Officer
Canara Bank Building
Anna Salai
Chennai 600 002

2 The Debts Recovery Tribunal-III
represented by its Registrar/
Presiding Officer
Canara Bank Building
Anna Salai
Chennai 600 002

3 State Bank of India
represented by its City Case Officer
Stressed Assets Recovery Branch
II Floor, Red Cross Building
32, Montieth Road, Egmore
Chennai 600 008

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of prohibition prohibiting the second respondent from proceeding the O.A. No.127 of 2013 any more filed by the third respondent as the same is illegal.

For petitioner Mr. J. Arockia Selvaraj

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

The petitioners, stated to be borrowers of loan amount of Rs.7.50 lakhs from the third respondent bank, have filed the instant writ petition, seeking a writ of prohibition prohibiting the second respondent, viz., Debts Recovery Tribunal-III, Chennai, from proceeding further with O.A. No.127 of 2013 filed by the third respondent, as the same is illegal.

2 The contention of the learned counsel for the petitioners is that the petitioners have repaid a substantial amount of loan, being Rs.4,63,187/- and after deducting the same, the balance payable is only Rs.2,86,813/-. Thus, the second respondent does not have jurisdiction to take cognizance of the application filed by the third respondent bank under the provisions of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (for short "the RDDBFI Act") in view of Section 1(4), *ibid*, as per which, the said Act shall not be applicable, if the amount of debt due is less than Rs.10 lakhs. In this regard, the learned counsel for the petitioner garners support from a judgment dated 25 August 2014 rendered by a Single Bench of this Court in S.A. No.832 of 2014, wherein, it has been held as under:

"However, the Trial Court, without properly appreciating Section 1(4) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 enabling the financial institutions to approach the civil Court for recovery of debts due and payable below Rs.10 lakhs, has refused to decree the suit for recovery. Therefore, when it is the consistent stand of both parties that there have been dues payable by the appellants to the respondent-bank, decreeing the suit for payment of Rs.3,27,862/- by directing the appellants to pay the same to the respondent bank with subsequent interest at the rate of 9% per annum for the above said amount from the date of plaint till the date of decree and 6% interest thereafter till the date of realisation, cannot be found fault with. x x x x x"

3 But, it is eloquent from the pleadings made in the application in O.A. No.127 of 2013 preferred by the third respondent bank that the petitioner's claim as on 22 April 2013 was Rs.15,33,548.54.

4 Be that as it may, there being two contradictory amounts claimed by rival parties, this is a clear case of disputed question of facts. In such view of the matter, we are

not inclined to interfere at this stage. However, we make it clear that if all the aforesaid facts are brought to the notice of the second respondent in the pending O.A., the second respondent is under an obligation to consider the question of maintainability before proceeding further and take a reasoned and conscious decision.

5 The writ petition stands disposed of with the above observations. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Registrar/Presiding Officer
Debts Recovery Tribunal - I
Canara Bank Building
Anna Salai, Chennai 600 002
 - 2 The Registrar/Presiding Officer
Debts Recovery Tribunal-III
Canara Bank Building
Anna Salai, Chennai 600 002
 - 3 City Case Officer
State Bank of India
Stressed Assets Recovery Branch
II Floor, Red Cross Building
32, Montieth Road, Egmore
Chennai 600 008
- + 1 cc to Mr.B. Chendran, Advocate SR.67136

W.P. No.39154 of 2015

KJI(CO)
EU 29.12.15

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