

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2015

CORAM

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

W.P.No.8406 of 2015
and
M.P.Nos.1 and 2 of 2015

C.Gangatharan

... Petitioner

Vs.

1. The Registrar,
Debts Recovery Appellate Tribunal,
Ethiraj Salai,
Chennai.
2. The Presiding Officer,
Debts Recovery Tribunal,
Madurai.
3. The Authorized Officer of RARC,
The Chief Manager,
Indian Bank, Zonal Office,
21C/1, S.N.High Road,
M.K.M.Complex,
Tirunelveli-627 001.

... Respondents

This writ petition is filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records pertaining to the order passed by the Debts Recovery Appellate Tribunal, Chennai in R.A.(S.A.)No.80 of 2013 dated 10.07.2014 confirming the order of the Debts Recovery Tribunal, Madurai in S.A.No.215 of 2011 dated 14.02.2013 and quash the same.

For Petitioner : Mr.C.K.M.Appaji

ORDER

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

The instant writ petition arises from the order dated 10.07.2014 passed by the Debt Recovery Appellate Tribunal (for short "DRAT") at Chennai in RA(SA)No.80 of 2013.

2. The case of the petitioner is that being aggrieved by the possession notice dated 16.8.2011 issued under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act"), the petitioner has preferred an application being S.A.No.215 of 2011 before the Debts Recovery Tribunal at Madurai on the ground that no demand notice was received by the petitioner and also that the subject property, i.e., the secured asset, is an agricultural land and as such, the provisions of the SARFAESI Act are not applicable to the said property.

3. The Tribunal, after examining the entire facts of the case and also considering the stand of the petitioner, observed that except mere allegations, no document was filed to show that agricultural activities and operations are carried out in the land in question. Relying on the decision of the High Court of Andhra Pradesh in Gajula Exim (P) Ltd., Vs. Authorised Officer, Andhra Bank¹, the contention of the petitioner that the land in question is an agricultural land was rejected. On the issue of the notice, it was held that proper procedure was followed before the impugned possession notice dated 16.8.2011 under Section 13(4) of the SARFAESI Act was issued. Resultantly, the application was dismissed.

4. Thereagainst, the petitioner preferred an appeal before the DRAT. The DRAT again examined the entire issue and upheld the finding and the order passed by the Tribunal. Thereagainst, the petitioner has come up with this petition on the same ground that the land in question is an agricultural land and also that the demand notice was not served and the reply notice dated 18.7.2011 was not issued in accordance with the provisions of the SARFAESI Act.

5. Heard the learned counsel for the petitioner. The aforestated issues involved factual findings. The petitioner has not produced any material even before us to establish that the agricultural activities are carried out in the land in question. By

¹ 2008 (4) ALD 385 = 2009 (149) Company Cases 489

mere mentioning in the revenue records that the land is an agricultural land, the petitioner is not entitled to benefit of exemption as contemplated under the provisions of the SARFAESI Act. The findings of facts recorded by the Tribunal as well as the DRAT are based on proper appreciation of documents and also on consideration of the case of the petitioner. Thus, exercising power under Article 226 / 227 of the Constitution of India, we are not inclined to go into the findings of facts when the impugned order passed by the DRAT does not suffer from any irregularity or illegality or vice of exceeding jurisdiction. The writ petition is, accordingly, dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Registrar,
Debts Recovery Appellate Tribunal,
Ethiraj Salai,
Chennai.
2. The Presiding Officer,
Debts Recovery Tribunal,
Madurai.
3. The Authorized Officer of RARC,
The Chief Manager,
Indian Bank, Zonal Office,
21C/1, S.N.High Road,
M.K.M.Complex,
Tirunelveli-627 001.

+1cc to M/s.C.K.M.Appaji, Advocate, S.R.No.17125

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MP (CO)
CA(10/04/2015)