



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2015

CORAM:

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

THE HONOURABLE DR.JUSTICE S.TAMILVANAN

W.P.(MD).Nos.1461 to 1465 of 2015

and

M.P.Nos.1,1,1,1 and 1 of 2015

K.K.Ramalingam

:Petitioner in all WP's

Vs.

1.The Presiding Officer,
Debts Recovery Tribunal,
Madurai.

2.The Authorized Officer,
Canara Bank, Park Road Branch,
C.D.Building, 76, Park Road,
Erode 638 003.

:Respondents in all WP's

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Proceedings in T.A.Nos.320, 321, 322, 323 and 324 of 2008, dated 28.01.2015, on the file of the Respondent No.1 and quash the same as illegal and consequently for a direction, directing the respondent No.1 to transfer the proceedings in T.A.Nos.320, 321, 322, 323 and 324 of 2008 to the Debts Recovery Tribunal, Chennai or any other Debts Recovery Tribunal, within the time period stipulated by this court.

For Petitioner : Mr.K.K.Ramalingam
Party-in-Person

COMMON ORDER

[Order of the Court was made by The Hon'ble The Chief Justice]

The common order in challenge has been passed by the Debts Recovery Tribunal, on 28.01.2015, with which the petitioner is aggrieved. The petitioner wants a dual relief - a). waiver of exemplary costs of Rs.10,000/- in each appeal and b). further adjournments.

2. The saga of adjournments is apparent from the impugned order and thus, the relevant paragraph is reproduced as under:-

"It is observed from the earlier proceedings the arguments heard on behalf of the bank on 22.04.2014. At this stage, defendant filed a memo for changing the previous counsel. Change of Vakalat filed on 05.05.2014 and a petition filed before Registry for summoning the witness for cross examination. On 23.05.2014, the defendant submitted that senior counsel on vacation at the Andaman and Nicobar island again sought time and it was adjourned against payment of Rs.5,000/- cost to other side. On 04.06.2014, the arguments in the IA 795/14 to



permit cross examination heard and reserved for orders and on that day further time sought on the main case on the ground that they are ready to settle the entire dues provided bank charges 6% at interest. Order passed on the said IA dismissing the said on 12.06.2014. Again defendant sought time on 16.06.2014, on the ground to prefer appeal on the said order and it requested declined and matter is reserved for orders. IA 1323/14 (Re-open) petition filed and to give an opportunity it was allowed on 18.08.2014 and matter is adjourned to 29.09.2014 as a last opportunity. In view of DFS notification dated 17.09.2014 transferring four Districts to DRT, Coimbatore and advocate strike, the subject case were listed on 09.12.2014 and posted to 19.12.2014. On that day the defendants informed they have filed another petition IA 2029/14 for appointment of Advocate through Legal Service Authority and it is adjourned to 01.01.2015. On which day again defendant filed IA 282/14 to defer TA proceeding by two months and also IA 366/14 to defer TA proceeding by one month pending adjudication of W.PA 6327/14 both were dismissed. For getting the assistance from the Legal Service Authority matter is adjourned to 20.01.2015 and the said petition IA 2029/14 closed as legal service authority agreed to provide legal assistance to him. The Advocate appointed an legal service authority Thiru.G.Murugan expressed his inability to take up the brief and return the papers to defendant. So on 20.01.2015 the matter was adjourned to 28.01.2015."

3. It is, in view of the aforesaid circumstances, the Debts Recovery Tribunal came to the conclusion that enough opportunity had been granted and no further adjournment should be granted to the defendants in the OA proceedings, [the petitioner/appellant before us]. Despite that, the matter was adjourned to 06.02.2015 - today, before the Debts Recovery Tribunal, Madurai. We are of the view that the petitioner/appellant is not entitled to any further adjournment on this account.

4. Insofar as the imposition of exemplary cost is concerned, the appellant has relied upon the orders passed by the Madras High Court on 01.12.2006, in C.S.D.Nos.18294, 18285 and 18273 of 2004, declaring the appellant therein as an indigent person. It is, thus, his submission that the imposition of exemplary costs for an indigent person would amount to denial of right to be heard.

5. We find some substance in this plea and thus, the Debts Recovery Tribunal may examine this issue, keeping in mind that the appellant has been declared as an indigent person.

6. We may note that the appellant appeared in person in T.A.No.323 of 2008 and on behalf of other family members in T.A.Nos.320, 321, 322 and 324 of 2008.

7. The Writ Petitions stand accordingly dismissed, but with the aforesaid observations. No costs. Consequently, connected Miscellaneous Petition are closed.

Sd/-

Assistant Registrar(Crl.side)

/True copy/



To

1 The Presiding Officer,
Debts Recovery Tribunal, Madurai.

2. The Authorized Officer,
Canara Bank, Park Road Branch,
C.D. Building, 76, Park Road,
Erode 638 003.

+1CC to M/s.T.Lajapathi Roy, Advocate in SR.5558

W.P. (MD) .Nos.1461 to 1465 of 2015
06.02.2015

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