

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2016

CORAM:

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

W.P. No.10224 of 2016

R. Loganathan

Petitioner

Vs.

The Registrar
The Debts Recovery Tribunal
Coimbatore

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent to take the petitioner SARFAESI appeal in SR. No.2095 of 2016 dated 09.03.2016 before the Debts Recovery Tribunal at Coimbatore by condoning the delay of 28 days in preferring the same and post before the Hon'ble Bench of Debts Recovery Tribunal at Coimbatore to decide and dispose the same on merits in accordance with law.

For petitioner Mr. R. Krishnamurthy
for M/s. R. Pandian

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This writ petition is filed seeking a relief of condonation of delay of 28 days in preferring the SARFAESI Application before the Debts Recovery Tribunal, Coimbatore (for brevity "the Tribunal") and to direct the Tribunal to consider and dispose of the SARFAESI Application on merits and in accordance with law.

2 The petitioner made an Interlocutory Application before the Tribunal seeking condonation of delay of 28 days in preferring the SARFAESI Application. The Tribunal rejected the application at the threshold without registering the same on the ground that the Tribunal has no power to entertain the application for condonation of delay. Feeling aggrieved, the petitioner has come up with the instant writ petition seeking the aforesaid relief.

3 In the case on hand, the Registry of the Tribunal has declined to register the case at the threshold without placing the case for adjudication before the Tribunal on the question of maintainability of the application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI

Act"). The registration of the application filed under Section 17 of the SARFAESI Act cannot be denied. It is for the Tribunal to consider the issue of power of the Tribunal to condone the delay. Sub-section (7) of Section 17 of the SARFAESI Act provides that the Debts Recovery Tribunal shall, as far as may be, dispose of the application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (herein-after referred to as "RDDBFI Act") and the rules made thereunder. Section 24 of the RDDBFI Act provides for applicability of the provisions of the Limitation Act. It is for the Tribunal to consider as to whether the application is maintainable or not, not for the Registry of the Tribunal. Accordingly, the order of the Registry, declining to register the application is set aside. A direction is issued to the Registry of the Tribunal to register the same and place before the Tribunal to consider the application for condonation of delay on its own merit and in accordance with law.

4 The writ petition stands disposed of with the above observation and direction. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

cad/vvk

To

The Registrar
The Debts Recovery Tribunal
Coimbatore

1 cc to Mr.R. Pandian, Advocate, Sr. 17652

W.P. No.10224 of 2016

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