

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.6.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.Nos.22583 and 23997 of 2014
and
M.P.Nos.1, 1 and 2 of 2014

A.Kavitha Petitioner in both W.Ps.

Versus

1 The Authorised Officer
Indian Bank Ashok Nagar
Chennai 600 083

2 The Debts Recovery Tribunal III
Rep by its Registrar Chennai Respondents in
W.P.No.22583 of 2014

1 The Presiding Officer,
Debts Recovery Tribunal III,
Chennai

2 M/s.New Concrete
Rep by its Proprietor
Newton Selvaraj
Plot No.45 Victory Avenue Extension
Vengambakkam Chennai 600 127

3 Newton Selvaraj

4 Indian Bank
69 First Avenue
Ashok Nagar Chennai 600 083

5 The Authorised Officer
Indian Bank
69 First Avenue Ashok Nagar
Chennai 600 083

Respondents in
W.P.No.23997 of 2014

Prayer in W.P.No.22583 of 2014: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records of the proceedings dated 10.6.2014 in I.A. 419 of 2014 in S.A. 217 of 2014 on the file of the second respondent and to quash the same as illegal and without jurisdiction.

Prayer in W.P.No.23997 of 2014: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records of the proceedings dated 12.6.2014 in S.A. 176 of 2014 on the file of the first respondent and to quash the same as illegal and without jurisdiction.

For petitioner in both WPs : Mr.Bharath Palle

For R1 in W.P.No.22583/2014
& for RR4 and 5 in

W.P.No.23997/2014 : Mr.F.B.Benjamin George

For R3 in W.P.No.23997/2014 : Mr.Govind Chandrasekar

R2 : Tribunal

COMMON ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. Writ Petition No.22583 of 2014 has been filed seeking issuance of a writ of certiorari to call for the records of the proceedings dated 10.6.2014 in I.A. 419 of 2014 in S.A. 217 of 2014 on the file of the second respondent and to quash the same as illegal and without jurisdiction and Writ Petition No.23997 of 2014 has been filed seeking issuance of a writ of certiorari to call for the records of the proceedings dated 12.6.2014 in S.A. 176 of 2014 on the file of the first respondent and to quash the same as illegal and without jurisdiction.

3. The petitioner in both the writ petitions, by name A.Kavitha, seems to have stood as guarantor for the loan availed by respondents 2 and 3 in W.P.No.23997 of 2014 and faced the SARFAESI proceedings for the default committed by them and thereby her properties were brought to auction at the instance of the Indian Bank, Ashok Nagar. The borrowers had preferred S.A.No.176 of 2014 which was dismissed by the Debts Recovery Tribunal and the application filed by the guarantor viz., the petitioner herein in I.A.No.419 of 2014 in S.A.No.217 of 2014 to condone the delay was also dismissed by the Tribunal. Challenging order passed by the Tribunal in I.A.No.419 of 2014 in S.A.No.217 of 2014 and the order passed in S.A.No.176 of 2014, the present writ petitions have been filed by the guarantor.

4. It appears that the Application filed by the guarantor to condone the delay in filing the appeal came to be dismissed on the ground of limitation as it is stated that the application was filed beyond the time limit. However, it is settled principle that application could be entertained by condoning the delay as per law laid down by the Apex Court. Therefore, the impugned order is set aside and the matter is remanded to the Debts Recovery Tribunal to consider the case for condoning the delay in accordance with law. So far as W.P.No.23997 of 2014 is concerned, it is filed as against the order passed by the Tribunal in the appeal filed by the borrowers. Since we have disposed of W.P.No.22583 of 2014, directing the Debts Recovery Tribunal to consider the application for

condoning the delay filed by the petitioner, W.P.No.23997 of 2014 becomes infructuous. Accordingly, both the writ petitions are disposed of. However, it is for the petitioner in both the petitions to approach the Debts Recovery Tribunal well in advance without any further delay. No costs. The connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To:

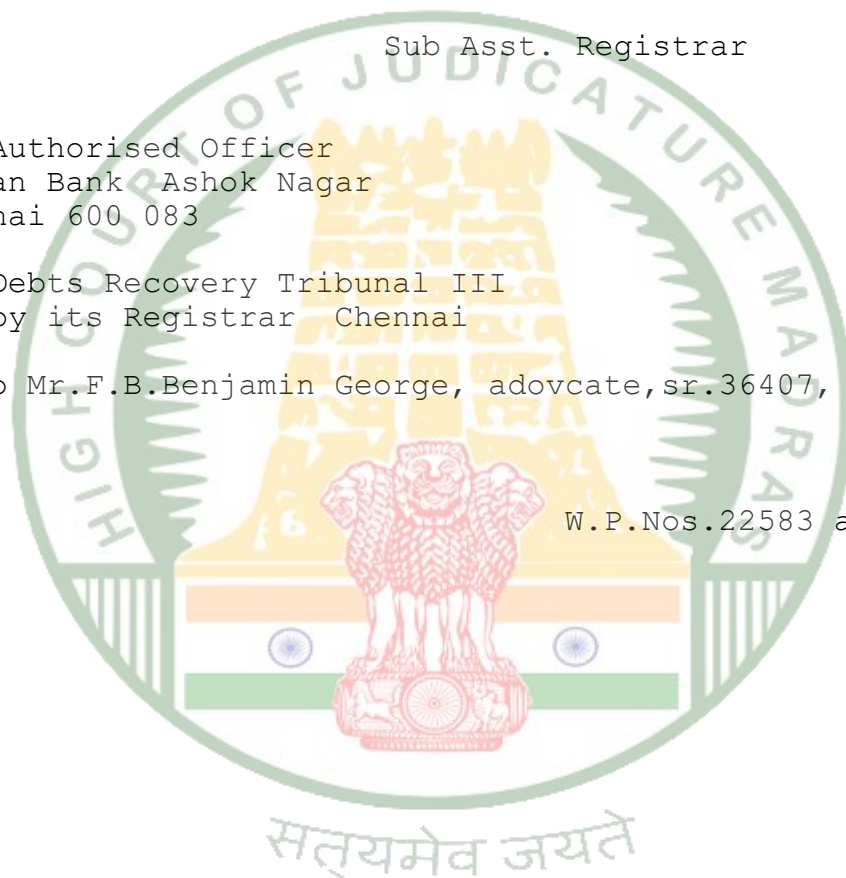
1 The Authorised Officer
Indian Bank Ashok Nagar
Chennai 600 083

2 The Debts Recovery Tribunal III
Rep by its Registrar Chennai

+2 cc's to Mr.F.B.Benjamin George, adovcate,sr.36407, 36408.

ctk(co)
krd 3/8

W.P.Nos.22583 and 23997 of 2014



WEB COPY