

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2016

CORAM

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

Writ Petition No.15200 of 2016
and WMP.No.13249 of 2016

N.Sankaranarayanan

...Petitioner

Vs.

- 1 The Debts Recovery Tribunal-II
Spencer Towers, 4th Floor
No.770-A Anna Salai
Chennai-02.
 - 2 IDBI Bank Ltd.
Retail Assets Centre
Rep.by Authorized Signatory
Murugesu Naicker Complex (3rd Floor)
No.68, Greaves Road Chennai-06
- ...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents herein from proceeding with the enquiry in O.A.No.139 of 2013 before the Debts Recovery Tribunal Viz. 1st Respondent herein, pending disposal of the appeal filed by the petitioner under Section 20 of the Recovery of the Debts due to Banks and Financial Institutions Act 1993 in M.A.No.75 of 2015 pending before the Debt Recovery Appellate Tribunal, Chennai.

For Petitioner : Mr.A.K.Raghavelu

For Respondents : Mr.R.Venkatavarathan for R2
R1-Tribunal

O R D E R

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

Heard the counsel for the petitioner and the learned counsel appearing for the 2nd respondent Bank.

2. This Writ Petition is filed praying to issue a Writ of Mandamus forbearing the respondents herein from proceeding with the enquiry in O.A.No.139 of 2013 before the Debts Recovery Tribunal Viz. 1st Respondent herein, pending disposal of the appeal filed by the petitioner under Section 20 of the Recovery of the Debts due to Banks and Financial Institutions Act, 1993 in M.A.No.75 of 2015 pending before the Debt Recovery Appellate Tribunal, Chennai.

3. Admittedly, the petitioner has availed Over Draft Facility for a sum of Rs.20,00,000/- which was subsequently reduced by the Bank to 11,00,000/- and the 2nd respondent-Bank sanctioned the same by letter dated 21.10.2010 and 23.05.2011. According to the 2nd respondent-Bank, the petitioner had failed to honour his commitment and had not settled the loan account. Hence, for the said reason, the 2nd respondent-Bank filed O.A.No.139 of 2013 seeking a direction to the defendant/petitioner to pay a sum of Rs.24,98,580/- together with interest thereon at the rate of 16.5 per cent per annum.

4. The stand of the petitioner is that he filed counter in O.A.No.139 of 2013 before the DRT stating that the claim made by the Bank was false and also filed I.A.No.159 of 2015 in O.A.No.139 of 2013 seeking permission to cross examine the representative of the Bank and prove that the 2nd respondent Bank has unilaterally reduced the overdraft facility and subsequently withdrawn it without any notice, however, the DRT, without considering the merits of the said application, dismissed the same by order dated 19.06.2015. It is further stated by the petitioner that aggrieved by the said order passed in I.A.No.159 of 2015, he preferred appeal in M.A.No.75 of 2015 before the DRAT, Chennai, seeking to set aside the impugned order dated 19.06.2015, however, since there is no Chairperson for the DRAT, Chennai, pending consideration of the same, this Writ Petition is filed forbearing the respondents from proceeding with the enquiry in O.A.No.139 of 2013 before the DRT, pending disposal of the appeal before the DRAT.

5. Taking into consideration the submissions made on the side of the Petitioner and also considering the fact that the DRAT, Chennai, has no Presiding Officer as of today, in order to give an opportunity to the Petitioner, the impugned order passed in I.A.No.159 of 2015 is set aside, so as to enable the petitioner to cross examine P.W.1, the Bank Official, with regard to the ground question as regards reduction of overdraft facility, before the Debts Recovery Tribunal-II, Chennai, and the DRT shall complete the enquiry in this regard as expeditiously as possible. We are of the considered view that no prejudice would be caused, if the petitioner-Proprietor is allowed to cross examine the witness of the Bank regarding the above said ground question.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1 The Debts Recovery Tribunal-II
Spencer Towers, 4th Floor
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 - 2 Authorized Signatory
IDBI Bank Ltd.
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No.68, Greaves Road Chennai-06
- +1 cc to Mr.A.K.Raghavelu Advocate sr.34203

W.P.No.15200 of 2016

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