

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) No.3983 of 2016

Mr.J.Mohan Jeevarathinam .. Petitioner

versus

1. Smt.Sakunthala
2. Mr.S.Kanagaraj

3. The Recovery Officer,
Debt Recovery Tribunal,
Trichy Road, Ramanathapuram,
Coimbatore.

4. Punjab National bank,
Rep. by its Authorised Officer,
Asset Recovery Branch,
448-A, Dr.Nanjappa Road,
Coimbatore.

5. M/s.PMP Metal Mart,
Rep. by Proprietor Mr.P.M.Palaniappan.

6. Mrs.P.Poongothai
7. P.M.Palaniappan

.. Respondents

Civil Revision Petition filed under Article 227 of Constitution of India, to direct the Debt Recovery Tribunal, Coimbatore to expeditiously dispose of the Appeal No.5 of 2015 against R.P.No.53 of

2013, now pending on the file of Debt Recovery Tribunal, Coimbatore, within a time frame as may be fixed by this Hon'ble Court.

For Petitioner : Mr.R.Veeramani

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Smt.Sakunthala and Mr.S.Kanagaraj, respondents 1 and 2, in the present revision petition, have filed Appeal No.5 of 2015 before the Debts Recovery Tribunal, Coimbatore, seeking for a prayer to set aside the order passed by the Recovery Officer, Debts Recovery Tribunal, Coimbatore, in R.P.No.53 of 2013 dated 05.10.2015. In the said appeal, the petitioner/auction purchaser has been arrayed as 6th respondent.

2. Material on record further discloses that pending Appeal No.5 of 2015, I.A.No.1675 of 2015 has been filed to stay all further proceedings in R.P.No.53 of 2013, dated 05.10.2015. The Tribunal initially granted ad interim injunction against respondents 1 and 2 therein, not to proceed with the proceedings in R.P.No.53 of 2015

dated 05.10.2015 till 28.10.2015. Thereafter, posted the matter for filing counter.

3. Record of proceedings of Appeal No.5 of 2015 enclosed in the typed set of papers filed to the instant writ petition, shows that periodically, interim order granted on 19.10.2015, has been extended. On 23.06.2016, on the basis of the representation made by the 6th respondent therein/auction purchaser/writ petitioner herein, that matter requires to be disposed of at an early date so as to facilitate him to take possession of the secured assets purchased by him, in the public auction conducted by Punjab National Bank, represented by its authorised officer, Asset Recovery Branch, Coimbatore, the 2nd respondent, the Debts Recovery Tribunal, Coimbatore has fixed the date for final hearing of the appeal on 12.07.2016 as last chance. Thereafter, on 12.07.2016, appellants have appeared in person. The Senior Manager (Law) of Bank was present. Tribunal, has adjourned the appeal to 17.08.2016 and extended the interim order. Thereafter on 17.08.2016, when the appeal was posted for hearing, the appellant was present. The following order has been passed

"Applicant Present. Ld Counsel Mr.Horsen Prabhu is appearing for R/B. Ld. Counsel Mr.Kulandaisamy for R2. For final arguments by 20.9.16. On memo, interim order extended till then. Call on 20.09.16."

4. Contending inter alia that the auction purchaser had invested his hard earned money to the tune of Rs.33 Lakhs and that the appeal filed by respondents 1 and 2 herein, is being adjourned without just cause, instant revision petition is filed, under Article 227 of the Constitution of India, praying for a direction to the Debts Recovery Tribunal, Coimbatore, to expeditiously dispose of the appeal No.5 of 2015 filed against the order made in R.P.No.53 of 2013, dated 23.09.2015, within a time frame to be fixed by this Court.

5. On the above averments, we heard Mr.R.Veeramani, learned counsel for the petitioner and perused the materials available on record.

6. Courts and tribunals are flooded with many cases. Appeal No.5 of 2015, filed by respondents 1 and 2 herein, is of the year 2015. No doubt, the petitioner /auction purchaser, has invested huge funds

to purchase the property mortgaged with the bank. Sale certificate has been issued on 23.03.2015 and registered as Document No.2989 of 2015, in the office of the Sub Registrar Office, Singanallur. Finding prima facie, the tribunal in I.A.No.1675 of 2015 in Appeal No.5 of 2015 has granted interim injunction on 19.10.2015, against respondents 1 and 2 therein, not to proceed in R.P.No.53 of 2013 dated 05.10.2015 till 28.10.2015 and thereafter posted the application for filing counter by the parties therein. The 6th respondent therein/auction purchaser/writ petitioner herein has filed his counter affidavit on 16.12.2015. Thereafter, appeal has been posted for final hearing on 17.03.2016. Taking note of the submission of the auction purchaser made on 23.06.2016, the tribunal has posted the appeal for hearing on 12.07.2016, as last chance, and thereafter, on 17.08.2016 and on 20.09.2016.

7. There may be appeals filed by the borrowers / guarantors, and any other aggrieved person by any of the measures taken under sub section (4) of Section 13 of the SARFAESI Act, 2002. Merely because the auction purchaser/writ petitioner has invested huge amounts for purchase of the property of either the borrower /

guarantor, that would not give any right or place him in advantageous position, to seek for early hearing of the appeal.

8. At this juncture, it is also to be noted that the grievances of the borrowers/guarantors, whose properties are brought for auction, also have a right to seek for early disposal of the appeals. The Banks also would be willing to get the appeals disposed of, at an early date. However, in matters where interim orders are granted, likelihood of protraction by the person who had obtained interim order cannot be lost sight of. Taking note of the pendency of the appeals in the tribunal, we are not inclined to fix any specific outer time limit for disposal of Appeal No.5 of 2015, now pending on the file of Debts Recovery Tribunal, Coimbatore. However, we direct the Tribunal to expeditiously dispose of the Appeal No.5 of 2015. It is made clear that parties to the appeal should not indulge in any attempt to protract the proceedings, except for genuine or bona fide reasons.

9. With the above observation, the Civil Revision Petition is

disposed of. No Costs.

[S.M.K., J.] [M.G.R., J.]
21.12.2016

Index: Yes/No.
Internet: Yes
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S. MANIKUMAR, J.
AND
M.GOVINDARAJ, J.

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