

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2016

CORAM:

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

W.P.No.24536 of 2016
and
W.M.P.No.20939 of 2016

M/s.Fountain Head Communications P. Ltd.,
Rep. by its Managing Director, Suresh Pillai. .. Petitioner

versus

1. Canara Bank,
A.R.M. Branch,
rep. by its Chief Manager,
No.770, Spencer Tower-II,
Anna Salai, Chennai - 600 002.

2. Debt Recovery Appellate Tribunal-II
at Chennai,
4th Floor, Anna Salai, Dewa Towers,
(Previously Spencer Towers),
770-A, Anna Salai,
Chennai - 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of mandamus, directing the 1st respondent not to proceed with Recovery or any other coercive action pursuant to the order of the Debt Recovery Tribunal Chennai in OA No.2 of 2015 (Old OA.NO. 35/2014 on the file of DRT-1) dated 09.05.2016.

For Petitioner : Mr.Senthil Kumar
for Mr.Vijay Kumar Punna
For Respondents : Mr.S.Kesavan (for R2)

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

Borrower, who has suffered an order in O.A.No.2 of 2015 (Old No.35/2014) on the file of Debts Recovery Tribunal - II at Chennai dated 09.05.2016, has filed the instant writ petition for a mandamus, directing Canara Bank, Chennai, the 1st respondent, not to proceed with the recovery or any other coercive action pursuant to the order of the Debts Recovery Tribunal stated supra.

2. Record of proceedings shows that while directing notice to the
<https://hcservices.ecourts.gov.in/hcservices/>

respondents, a Hon'ble Division Bench vide order dated 15.07.2016, has granted interim stay for a period of eight weeks.

3. On this day, when the matter came up for further hearing, Mr.Senthil Kumar, learned counsel for the writ petitioner submitted that instant writ petition was filed when there was no regular appellate tribunal. He further submitted that being aggrieved by the order made in O.A.No.2 of 2015 dated 09.05.2016, on the file of the Debts Recovery Tribunal, Chennai, a statutory appeal under Sections 20 and 30 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, has been filed before the Debts Recovery Appellate Tribunal, Chennai, copy of which, is enclosed in the typed set of papers filed along with instant writ petition, and the same has been numbered and posted for hearing in the month of January 2017.

4. Mandamus cannot be issued to set at naught an order passed by the tribunal. However, appeal filed against the order in O.A.No.2 of 2015 on the file of the Debts Recovery Tribunal has been entertained and it is always open to the petitioner to seek for appropriate interim orders. There cannot be any parallel proceedings. In the light of the above, instant writ petition is dismissed. No Costs. Interim stay granted stands vacated and WMP.No.20939 of 2016 is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ars

To

1. Chief Manager,
Canara Bank,
A.R.M. Branch,
No.770, Spencer Tower-II,
Anna Salai, Chennai - 600 002.

2. Debt Recovery Appellate Tribunal-II
at Chennai,
4th Floor, Anna Salai, Dewa Towers,
(Previously Spencer Towers),
770-A, Anna Salai,
Chennai - 600 002.

+1cc to Mr.A.Sushma Harini, Advocate, S.R.No.74095

+1cc to Mr.S.Kesavan, Advocate, S.R.No.73878

W.P.No.24536 of 2016

and

W.M.P.No.20939 of 2016

gj (CO) pmk.12.1.2017



सत्यमेव जयते

WEB COPY