

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 24-10-2016

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

WRIT PETITION No.34939 of 2016
and
WMP No.30080 of 2016

Mrs.V.Padmavathy Petitioner

-vs-

1.The State Bank of India
represented by its City Case Officer
Stressed Assets Management Branch
No.32, Montieth Road, Egmore
Chennai - 600 008

2.The Recovery Officer - II
Debts Recovery Tribunal - I
6th Floor, Deva Towers,
770-A, Anna Salai
Chennai - 600 002

3.A.Vinod Kumar

4.The Presiding Officer
Debts Recovery Tribunal - I
6th Floor, Deva Towers
770-A, Anna Salai
Chennai - 600 002

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari or any other order in the nature of writ calling for the records of the fourth respondent pertaining to the order dated 15.07.2016 in Appeal No.1 of 2015 and quash the same.

For Petitioner : Mr.L.Chandrakumar
for Mr.H.Manojin

For respondents: Mr.Sivakumar for R1
R2 & R4 Tribunal

ORDER

(delivered by S.MANIKUMAR, J.)

When, Debts Recovery Appellate Tribunal, Chennai, was not functioning, an order made in Appeal No.1 of 2015 dated 15.07.2016, passed by the Debts Recovery Tribunal-I, Chennai, has been challenged under Article 226 of the Constitution of India.

2. Going through the material on record shows that, while ordering notice of motion on 03.10.2016, returnable by 20.10.2016, this court, ordered that there shall be an order of interim injunction restraining the respondents, its men, agents, servants or any one authorised by the second respondent from taking actual possession of the secured asset, till 20.10.2016. We directed the matter to be listed on 17.10.2016. On which date, interim order was extended.

3. Mr.Sivakumar, learned counsel for the respondent-bank submitted that, on 20.10.2016, the day on which, the writ petition came up for hearing, vakalat has been filed on behalf of the first respondent. He further submitted that, now that the Debts Recovery Appellate Tribunal, Chennai, has become functional, a statutory appeal has to be filed.

4. Mr.L.Chandrakumar, learned counsel representing Mr.H.Manojin, learned counsel on record for the petitioner, acknowledges the said submission. But, however, prays for an interim protection from this court, till appropriate orders are passed by the Debts Recovery Appellate Tribunal, Chennai, as regards possession.

5. In the light of the submission of the learned counsel appearing for both parties, that there is an effective and alternative remedy, we dispose of the instant writ petition, reserving the right of the petitioner, to file a statutory appeal before the Debts Recovery Appellate Tribunal, Chennai, as against the order made in Appeal No.1/2015 dated 15.07.2016 on the file of the Debts Recovery Tribunal-I, Chennai. While entertaining the appeal, the Tribunal shall take note of the interim orders passed by this court and on the materials placed, pass suitable orders.

Writ petition is disposed of accordingly. However there shall be no order as to cost. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Presiding Officer
Debts Recovery Tribunal - I
6th Floor, Deva Towers
770-A, Anna Salai
Chennai - 600 002.

2.The Recovery Officer - II
Debts Recovery Tribunal - I
6th Floor, Deva Towers,
770-A, Anna Salai
Chennai - 600 002

+1cc to M/S.Shivakumar & Suresh, Advocate Sr.60360
+1cc to Mr.H.Manoji, Advocate Sr.60429

W.P.No.34939 of 2016

kji[col]
srg 24/10/2016

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