

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-10-2016

CORAM

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

WRIT PETITION No.35543 of 2016
and

WMP No.30555 of 2016

1.S.Md. Siddique
2.S.Fathima Begum
3.S.Syed Abbas
4.S.Masthan Ibrahim ... Petitioners

-vs-

1.The Debts Recovery Appellate Tribunal
Represented by its Registrar
No.55, Wellington Estate 4th Floor
Ethiraj Salai, Chennai - 600 105

2.ASREC (India) Limited
UTI Tower, G M Block
Bandra Kurla Complex
Bandra East, Mumbai
(in the place of UCO Bank)

3.M/s.Infa Agro & Marine Exports P. Ltd.
10, Adiappa Gramani Street
Royapuram, Chennai - 13

4.Gerald Henry
5.Smt. Beena Johny
6.S.Syed Unis
7.D.Kader Meeran ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the 1st respondent pertaining to R.A.No.98 of 2013 and to quash the order passed dated 3.11.2015 and consequently to direct the 2nd respondent to

return the title deeds pertaining to the schedule mentioned properties within a time frame that may be granted by this Hon'ble Court.

For Petitioner : Mr.V.Karthic, Senior Counsel
for M/s.KV Law Firm

For respondents: Mr.J.Senthilkumar,
for R2 to R4

ORDER
(delivered by S.MANIKUMAR, J.)

Petitioner has sought for a writ of certiorarified mandamus, calling for the records of the 1st respondent pertaining to R.A.No.98 of 2013 and to quash the order passed dated 3.11.2015 and consequently for a direction to the 2nd respondent to return the title deeds pertaining to the schedule mentioned properties within a time frame that may be granted by this Hon'ble Court.

2. Material on record discloses that the respondents 3 to 5, borrowed loan from IBB Branch of UCO Bank. Writ petitioners stood as guarantors. Proposal for one time settlement of Rs.60.00 Lakhs has been agreed upon between the parties for release of the mortgaged properties of the guarantors, payable as hereunder:

- i) 1st instalment of Rs.5.00 Lakhs payable on or before 21/12/2011;
- ii) 2nd instalment of Rs.10.00 Lakhs payable on or before 21/02/2012; and
- iii) 3rd instalment of Rs.45.00 Lakhs payable on or before 15/03/2012.

3. Petitioners have filed M.A.No.747 of 2014 in R.A.No.98 of 2013 in O.A.No.1525 of 2001 on the file of Debts Recovery Tribunal - II, Chennai, for extending the time stipulated in the one time settlement scheme and to direct ASREC (India) Limited, Mumbai, the second respondent herein, to receive Rs.55.00 Lakhs towards the balance amount under the one time settlement and to discharge the guarantee.

4. Though during the course of hearing of the above said extension petition, the petitioners have sought for a direction to the first respondent therein, to receive the balance of the one time settlement amount together with interest at the rate of 6% per annum and discharge the guarantee, and the Debts Recovery Appellate Tribunal, Chennai, by observing that such a direction is beyond the scope of the petition, ultimately, at paragraph No.9 of the order made in M.A.No.747 of 2014 in R.A.No.28 of

2013 in O.A.No.1525 of 2011, extended the time by eight weeks from the date of passing of the order, with a direction to the petitioners therein to act as per the terms of the accepted one time settlement dated 21.12.2011, failing which the appeal would stand dismissed. Thus, from 7.9.2015, time has been extended by eight weeks, which falls on 2.11.2015.

5. Material on record discloses that pursuant to the order passed in M.A.No.747 of 2014 in R.A.No.98 of 2013 dated 7.9.2015, the petitioners herein, along with a letter dated 29.10.2015, sent a demand draft bearing No.097666 dated 29.10.2015 for Rs.30,82,100/- drawn on Karur Vysya Bank Ltd, Red Hills Branch, Chennai. In the said letter, the petitioners have given a Memo of Calculation setting out the one time settlement amount details, as here under:

Memo of Calculation

OTS Amount	..	Rs.60,00,000/-
Amount paid by us to you on 25-1-2012 vide D.D.No.445059 drawn on Andhra Bank, Red Hills Branch	..	Rs. 5,00,000/-
Amount deposited by me and withdrawn by you from DRAT Chennai	..	Rs.24,17,962/-

		Rs.29,17,962/-

6. M.A.No.747 of 2014, has been listed on 3.11.2015. On the said date, there was no representation for the writ petitioners/appellants therein. Presuming that the one time settlement amount has not been paid, within the extended time i.e. 2.11.2015, the Debts Recovery Appellate Tribunal, Chennai, has dismissed M.A.No.747 of 2014. Consequent to the dismissal of the above said MA, R.A.No.98 of 2013 has also been dismissed. Being aggrieved by the same, the present writ petition has been filed, praying for a writ of certiorarified mandamaus writ of certiorarified mandamus calling for the records of the 1st respondent pertaining to R.A.No.98 of 2013 and to quash the order passed dated 3.11.2015 and consequently, for a direction to the 2nd respondent, to return the title deeds pertaining to the schedule mentioned properties, within a time frame that may be granted by this Hon'ble Court.

7. When the matter came up for hearing on 06.10.2016, attention of this court, was brought to the notice of payment of

entire one time settlement amount, within the extended period. Prima facie satisfied, we directed notice to be served on the learned counsel for the respondent-bank.

8. Reverting, based on the averments made in the counter affidavit and documents filed in the typed set of papers, Mr.J.Senthilkumar, learned counsel for respondent Nos.2 to 4, submitted that the order made in M.A.No.747/2014 in R.A.No.98/2013 dated 7.9.2015 granting extension of time has been challenged by the second respondent before this court in W.P.No.1691 of 2015. The said writ petition came to be disposed on 22.01.2016, keeping the issue of challenge, in pending appeal in R.A.No.98 of 2013. Learned counsel for the second respondent further submitted that inasmuch as the petitioners did not pay 6% interest on the one time settlement amount, without prejudice to the outcome of the appeal/revision, a sum of Rs.30,82,100/- sent along with letter dated 29.10.2015 was received.

9. On this day, when the matter came up for hearing, de hors the rival contentions, both the learned counsel appearing for the petitioners and the learned counsel appearing for respondents 2 to 4, consented that if the writ petitioners, pay a further sum of Rs.11.46 lakhs, towards interest, within a period of eight weeks from today, then the entire dispute, would stand to rest, without any further adjudication and on receipt of the above said sum, M/s.ASREC (India) Limited, Mumbai, will release all the documents relating to the properties of the petitioners mortgaged with them, within two weeks thereafter. Submission of both the learned counsel is placed on record, and with the consent, the writ petition is disposed of on the above terms. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Asr

To

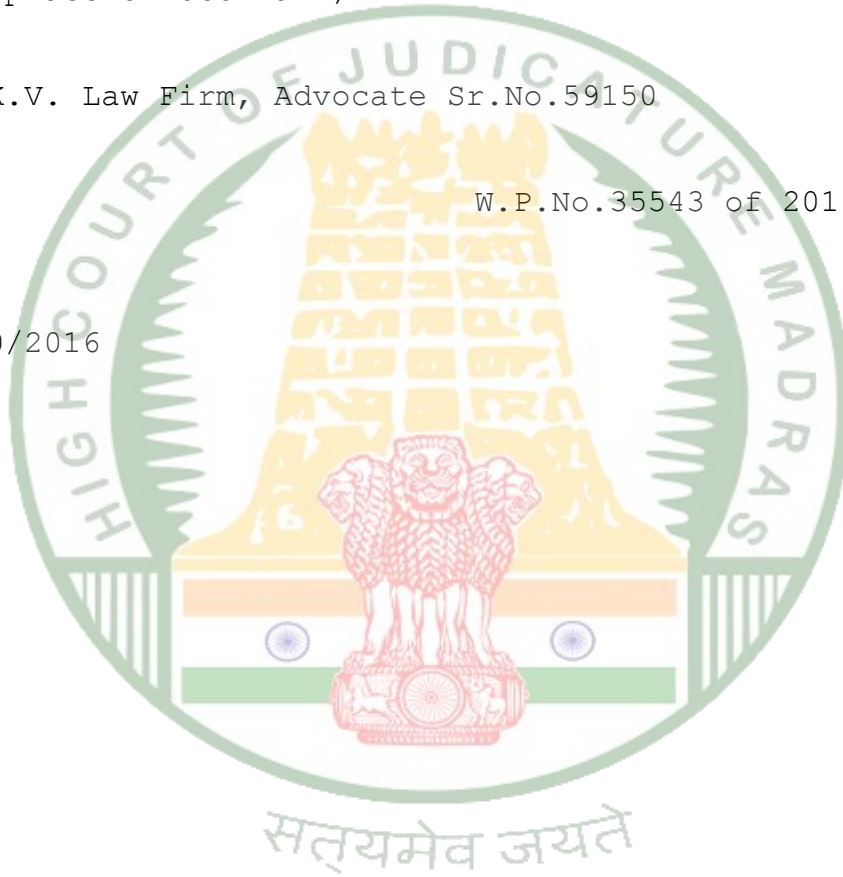
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+1 CC to K.V. Law Firm, Advocate Sr.No.59150

W.P.No.35543 of 2016

NR (CO)
MD : 26/10/2016



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19-10-2016