

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.10.2016

Coram:

The Hon'ble Mr.Justice S.MANIKUMAR
and
The Hon'ble Mr.Justice N.AUTHINATHAN

Writ Petition No.35656 of 2014
W.M.P.No.30648 of 2016

M.Damodaran

.. Petitioner

vs.

1. The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.
2. The Presiding Officer,
Debts Recovery Tribunal-II,
Chennai 600 002.
3. ING Vysya Bank Ltd.,
Anna Nagar Branch,
No.292, 'Z' Block, IInd Avenue,
Anna Nagar, Chennai 600 040.
4. L.Jayaseelan,
S/o.Laxmana Pandian,
W-426, 'C' Section, 2nd Avenue,
Anna Nagar West Extension,
Chennai 600 101.

Business at,

C-40, 2nd Avenue,
Anna Nagar, Chennai-40.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the 2nd respondent to permit the petitioner to cross-examine the PW.1, Bank Witness in O.A.No.140 of 2007 or otherwise direct the 2nd respondent to defer the proceedings in O.A.No.140 of 2007, on the file of the 2nd respondent, pending disposal of the appeal filed in AIR.No.331 of 2016, on the file of the Hon'ble Debts Recovery Appellate Tribunal, Chennai.

For petitioner : Mr.R.Munuswamy

O R D E R

[Order of the Court was made by S. MANIKUMAR, J.]

Being aggrieved by the orders of dismissal, dated 27.06.2016, made in I.A.Nos.1 and 2 of 2015 respectively, for sending the documents, pertaining to the writ petitioner, to an handwriting expert, to compare his signatures and to permit him to cross-examine PW.1 (Bank Witness) in O.A.No.140 of 2007, the writ petitioner has filed two appeals in AIR.Nos.330 and 331 of 2016, before the Debts Recovery Appellate Tribunal, Chennai.

2. According to the petitioner, on the date of filing the above petitions, there was no Presiding Officer in the Debts Recovery Appellate Tribunal, Chennai. Appeals filed, have not been taken up for hearing. O.A.No.140 of 2007, was posted for arguments on 06.10.2016, ie., today. In above circumstances, the petitioner has sought for a Mandamus, directing the Presiding Officer, Debts Recovery Tribunal-II, Chennai-2, the 2nd respondent herein, to permit him to cross-examine PW.1, Bank Witness in O.A.No.140 of 2007, or otherwise direct the 2nd respondent-Tribunal to defer the proceedings in O.A.No.140 of 2007, on file, pending disposal of the appeal, filed in AIR.No.331 of 2016, on the file of the Debts Recovery Appellate Tribunal, Chennai.

3. During the course of hearing of this writ petition, we are informed that a new Presiding Officer, a learned Judge appointed, is taking charge on 10.10.2016. There are hardly two days left for the learned Judge, to take charge.

4. Mr.R.Munusamy, learned counsel appearing for the petitioner submitted that there was no argument in O.A.No.140 of 2007 and that the same has been adjourned to 17.10.2016.

5. In view of the fact that a new Presiding Officer, a learned Judge, would assume Office on 10.10.2016 and take up the proceedings, we are of the view that it is open to the petitioner to seek for appropriate orders in AIR.Nos.330 and 331 of 2016, filed before the Debts Recovery Appellate Tribunal, Chennai, by requesting the Registrar, to post the matter before the appellate authority, for early hearing.

6. In view of the above, we are not inclined to issue any Mandamus, sought for. Hence, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

skm

To

1. The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.
2. The Presiding Officer,
Debts Recovery Tribunal-II,
Chennai 600 002.

+1cc to M/s. R. Munuswamy, Advocate, S.R.No.57630

ALA(CO)
EU(02/11/2016)

W.P.No.35656 of 2016

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