

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and

THE HONOURABLE MR.JUSTICE N.AUTHINATHAN

W.P.No.38570 of 2016

S.P. Swaminathan

.. Petitioner

vs.

1. The Presiding Officer
Debts Recovery Tribunal
1670, 1st Floor,
Cauvery Complex, Trichy Road,
Ramanathapuram
Coimbatore - 641 045.

2. Corporation Bank
Rep. by its Chief Manager
Tiruppur Main Branch
300, Mangalam Road
Tiruppur.

3. M/s. Vadivel Sizing and
Weaving Mills (P) Ltd.,
Rep. by the Official Liquidator
Office of the Official Liquidation
Kuralagam, Chennai.

4. Mrs. Indira Swaminathan
W/o. Mr. S.P. Swaminathan
144-145 DPF Street
Pappanaickenpalayam
Coimbatore - 641 637.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, to direct the 1st respondent viz., the Presiding Officer, DRT, Coimbatore to adjudicate and dispose the case in T.A. No.1071 of 2002 filed by the 2nd respondent Bank as early as possible or within time limit fixed by this Court, as early as possible in accordance with law and pass further orders.

For Petitioner : Mr. K.A. Ramakrishnan

For Respondent : Mr. R. Sethuraman for R2

R-1 Tribunal

ORDER

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

Material on record discloses that M/s. Corporation Bank, Tiruppur represented by its Chief Manager has filed O.A. No. 568 of 2000 before the Debts Recovery Tribunal-I, Chennai, against the 3rd respondent M/s. Vadivel Sizing and Weaving Mills Pvt. Ltd., Tiruppur, the petitioner Mr. S.P. Swaminathan and the 4th respondent, Mrs. Indira Swaminathan seeking for the following reliefs :-

- a) Order and directions to the respondent No.1 to 3 directing them to pay the applicant jointly and severally a sum of Rs.76,50,122/- as claimed in the particulars of claim vide para 6 to the application together with the pendente lite and future interest on Rs... at the rate of 20% p.a. compounded quarterly rests from the date of filing this application till realization.
- b) Order the recovery of sum as claimed in para I supra from defendant No.2 by sale of immovable properties morefully described in Schedule B hereto and payment thereof to the applicant.
- c) Order the recovery of sums as claimed in para I supra by sale of machineries/ movables hypothecated to the applicant bank which are morefully described in Schedule B hereto and payment to the applicant.
- d) That the costs of present application against defendants may kindly be awarded to the applicant.
- e) That any other and further reliefs which this Hon'ble Tribunal may deem just and proper in facts and circumstances of the case may be awarded to the applicant bank against all the defendants.
- f) That the Hon'ble Tribunal may also be pleased to issue Certificate of Recovery to its Recovery Officer in favour of Applicant Bank against all the defendants as claimed in para (i) to (v) supra.

The said Original Application has been transferred to the Debts Recovery Tribunal -II and re-numbered as O.A. No.1604 of 2001. Thereafter, due to jurisdictional change, Original Application has been transferred to Debts Recovery Tribunal, Coimbatore and renumbered as T.A. No.1071 of 2002.

2. Material on record further discloses that the fourth respondent in the said T.A. No.1071 of 2002, who is one of the guarantors, has filed I.A. No. 880/2009 praying for a direction to send the disputed documents at Page Nos.9 to 12, 15 and 46 to 48 of the Original / Transfer Application, to the handwriting expert of the Forensic Department. The said I.A has been dismissed by the Debts Recovery Tribunal, Coimbatore. Being aggrieved by the same, the fourth respondent therein, has filed an Application in M.A. No.618/2010 before the Debts Recovery Appellate Tribunal, Chennai. By order dated 12.08.2011, the Debts Recovery Appellate Tribunal, the Appellate Authority has directed the Debts Recovery Tribunal, Coimbatore to send the disputed documents at Page Nos.9 to 12, 15 and 46 to 48 of the Original / Transfer Application, to the handwriting expert and dispose of the Original Application, within three months from the date of receipt of the expert opinion.

3. Contending inter alia, the Bank has not filed proof affidavit along with the original documents, as directed by the Debts Recovery Appellate Tribunal and that T.A. No.1071 of 2002 is pending for a long time, one of the guarantors has filed the instant writ petition for a Writ of Mandamus, to direct the 1st respondent viz., the Presiding Officer, DRT, Coimbatore to adjudicate and dispose the case in T.A. No.1071 of 2002 filed by the 2nd respondent Bank, as early as possible or within a time limit to be fixed by this Court, in accordance with law. Responding to the prayer sought for, Mr.R.Sethurman, learned counsel for the respondent Bank submitted that he has no objection for any direction to be issued by this Court, for expeditious disposal of the matter. He further submitted that the writ petitioner should not insist for production of the original documents, directed to be sent to the handwriting expert.

4. We are not going into the above said aspect, except to issue a direction to the Debts Recovery Tribunal, Coimbatore, to dispose of T.A. No.1071 of 2002, as per law of evidence, within a period of three months from the date of receipt of a copy of this order.

5. The Writ Petition is disposed of, accordingly. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

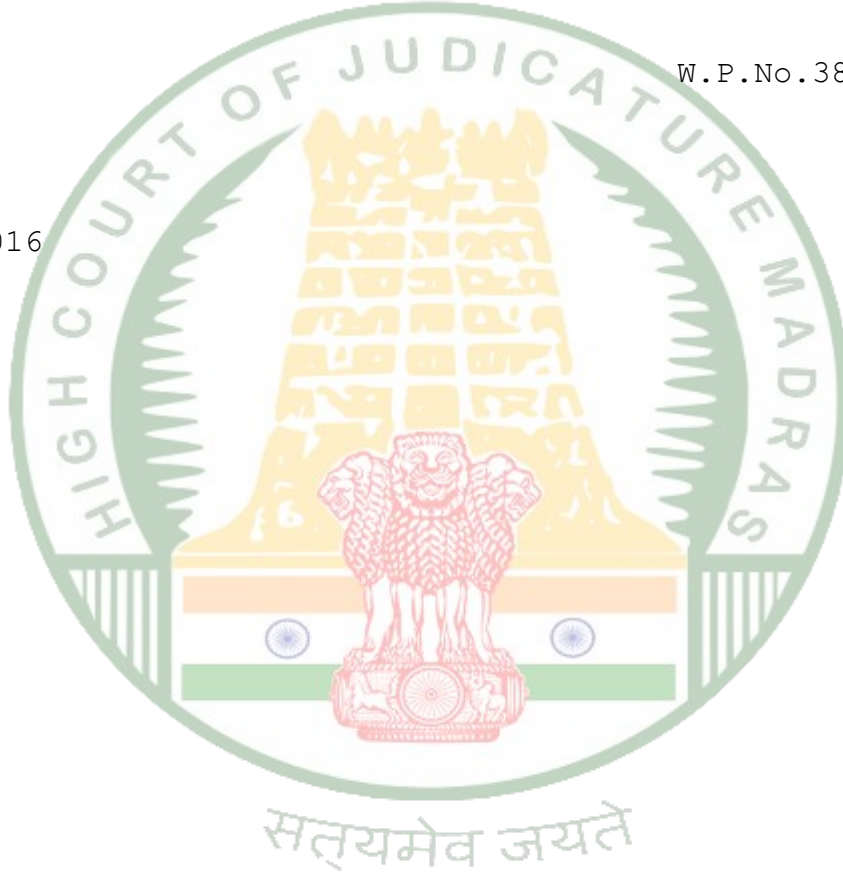
To

1. The Presiding Officer
Debts Recovery Tribunal
1670, 1st Floor, Cauvery Complex, Trichy Road,
Ramanathapuram, Coimbatore - 641 045.

+1 cc to Mr.S.Sethu Raman Advocate sr 65322
+1 cc to Mr.K.A.Ramakrishnan Advocate sr 65270

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