



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

C.R.P. (MD) No. 2352 of 2016

HDFC Bank Ltd., having its
Branch Office at No. 6,
Raj Bhavan 2nd Floor,
Bridhavan Road, Fair Lands,
Selam - 636 016,

represented by its Legal Officer ... Petitioner/Applicant
Vs.

S. Thangadurai ... Respondent/Defendant

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to direct the Debts Recovery Tribunal, Madurai to try the petition in I.A.No.671 of 2015 in O.A.No.280 of 2015 and to pass appropriate orders on merits, within a time frame as fixed by this Court.

For Appellant : Mr. M. Ponniah

O R D E R

(Order of this Court was delivered by **M. SATHYANARAYANAN, J.**)

The petitioner has instituted a recovery proceedings against the respondent herein in O.S.No.280 of 2015 under Section 19 of the Recovery Debts due to Banks and Financial Institutions Act 1993 for recovery of a sum of Rs.12,84,850/- towards the gold Loan Account No.545281 with interest and costs and in the event of default, the sale of the secured asset also.

2. The petitioner herein, pending disposal of the said original application, filed I.A.No.671 of 2015 praying for an order to sell the pledged gold by the respondent/defendant in a public auction for the best market price. In the affidavit filed in support of this Civil Revision Petition the petitioner would aver many other things that the legal notice sent to the respondent was returned with an endorsement "left" and despite the knowledge of initiation of recovery proceedings, the respondent neither made any repayment nor gave any reply and in terms of Clause 14 of the Loan agreement, the petitioner/Bank is entitled to sell the pledged gold and recovery the amount.



3. Since the respondent could not be served with notice, substituted service was ordered and paper publication was effected and despite that, he did not appear and therefore, the Tribunal, vide its order dated 22.01.2016, called the respondent absent and set him exparte. The grievance expressed by the petitioner is that the said application is kept pending for nearly one year, even though the respondent remained exparte and therefore came forward to file this Civil Revision Petition for expeditious disposal of the said application.

4. Heard the learned Counsel for the petitioner, who would submit that since the respondent remained exparte even in interlocutory application, there is no need to order notice in this petition, since the prayer sought for by the petitioner is to dispose of the said application as expeditiously as possible and in the event of passing any final order in this petition, the respondent will not put to any prejudice.

5. This Court has considered the submissions made by the learned Counsel for the petitioner and also perused the materials placed before this Court.

6. The respondent despite paper publication did not choose to contest the matter and therefore, he was called absent on 22.01.2016 and set exparte. The prayer sought for by the petitioner is only for expeditious disposal of I.A.671 of 2015 in O.A.No.280 of 2015 on the file of the Debts Recovery Tribunal, Madurai. In such view of the matter, this Court is of the view that no notice to the respondent is necessary.

7. In the result, the Civil Revision Petition is disposed of and the Debts Recovery Tribunal, Madurai is directed to accord priority and dispose of I.A.671 of 2015 in O.A.No.280 of 2015 pending on its file, as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Debts Recovery Tribunal, Madurai.

+1cc to Mr.M.Ponniah, Advocate in SR No.72311