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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].No.18515 of 2016

and

W.M.P. (MD) No.13408 of 2016

M.K.Muthukumaran

: Petitioner

Vs.

1. The Debts Recovery Tribunal,
Represented by its Presiding Officer,
Madurai.

2. State Bank of Hyderabad,
Represented by its Branch Manager,
95, West Perumal Maistry Street,
Madurai-625 001.

3. M.K.Janakiraman

4. Smt.Muthulakshmi

5. M.K.Thiyagarajan

6. M.K.Sundaramoorthy

7. Tmt.Mahalakshmi

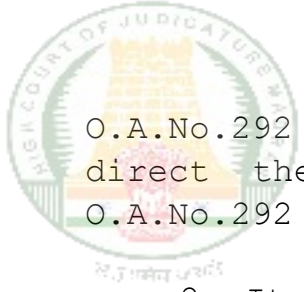
: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the Lok Adalath Award passed in O.A.No.292 of 2012, dated 30.11.2013 and quash the same and with a consequential direction, directing the Hon'ble Debts Recovery Tribunal to proceed with Trial of O.A.No.292 of 2012.

For Petitioner : M/s.Lakshmi Gopinathan,
For M/s.Polax Legal Solutions
For Respondent No.1 : Court
For Respondent No.2 : Mr.S.Rengasamy

O R D E R

[Order of the Court was made by **R.SUBBIAH, J.**]



O.A.No.292 of 2012, dated 30.11.2013, quash the same and also to direct the Debts Recovery Tribunal to proceed with Trial of O.A.No.292 of 2012.

2. It is the case of the petitioner that the second respondent Bank sanctioned a loan of Rs.2,00,000/- to the petitioner under PMRY Scheme on 11.10.2003. The Bank has also sanctioned a sum of Rs.4,00,000/- for M/s.Kumaran Agencies, in which, the petitioner was the Proprietor. For the loan under PMRY Scheme, no collateral security is needed and, therefore, in consideration of the said loan, he had executed only the appropriate loan papers in favour of the Bank. However, at the time of sanctioning the business loan, the Bank had obtained a deed of guarantee from his father Late.Krishnasamy on 11.10.2003 and also obtained title deeds in respect of the landed properties in Survey No.22/1-D Nanja Lands measuring 1 acre 31 cents.

3. It is further stated that the Bank has filed a mortgage suit in O.S.No.72 of 2007 on the file of learned V Additional District Judge, Madurai, against the petitioner and the respondents 3 to 7. Subsequently, on the ground of pecuniary jurisdiction, the suit was transferred to the Debts Recovery Tribunal, Madurai and re-numbered as O.A.No.292 of 2012 for recovery of dues to the tune of Rs.11,03,826/-. The bank had combined both PMRY loan and the business loan together to array sum of Rs.10,00,000/- with an intention to bring the matter before the Debts Recovery Tribunal. The act of the respondent bank in combining the collateral security offered for one loan with another loan without the consent and knowledge of the mortgagor itself is illegal. While so, he came to know that the matter was referred to Lok Adalat, wherein, the third and fifth respondents had entered into a compromise for a sum of Rs.9,00,000/- as one time settlement. In the said compromise, the petitioner and other respondents were not present. Therefore, he has come forward with the present petition challenging the Lok Adalat Award.

4. Today, when the matter was taken up for consideration, the learned counsel for the Bank himself submitted that since the condition imposed in the Lok Adalat Award has not been complied with, the Award itself has become infructuous. Furthermore, we are of the view that since all the parties were not signed in the terms of compromise, the Award cannot be executed. However, in view of the submission made by the learned counsel for the Bank, it is not necessary to quash the order impugned herein, because, the Award has no force in the eye of law. Therefore, by observing so, the Writ



Petition is disposed of. However, the Bank is at liberty to work out their remedy in O.A.No.292 of 2012 pending before the Debts Recovery Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (RTI)

Sub Assistant Registrar

To

The Presiding Officer,
The Debts Recovery Tribunal,
Madurai.

+1cc to M/S.Polaxlegal Solutions, SR.No.82823

**Order made in
W.P. [MD] .No.18515 of 2016
and
W.M.P. (MD) No.13408 of 2016
22.12.2016**

SML

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