

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.4.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE Dr.JUSTICE S.VIMALA

W.P.No.8017 of 2017
and
W.M.P.No.8763 of 2017

Mr.T.Ashok Surana

Petitioner

Versus

- 1 The Presiding Officer
Debts Recovery Tribunal 2 Chennai
4th Floor Dewa Towers
770A Mount Road Chennai-600 002
 - 2 The Presiding Officer
Debts Recovery Tribunal 3 Chennai
5th Floor Dewa Towers
770A Mount Road Chennai-600 002
 - 3 Indian Bank ARMB 1 Branch
Rep by Authorised Officer
4th Floor 55 Ethiraj Salai Egmore
Chennai-600 008
- Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration declaring that the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 and Recovery of Debt and Bankruptcy Act 1993 are controlled by Article 137 of the Limitation Act the only Article in the entire Limitation Act applicable to Special Acts both at the stage of adjudication in Recovery of Debts and Bankruptcy Act 1993 Act and execution in both the Acts and the blind justice being practiced violating the Fundamental Rights guaranteed under Part III of the Constitution of India be brought to an end restore status quo ante immediately.

For petitioner : Mr.T.Ashok Surana (Party in person)

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the petitioner, party in person.

2. The petitioner seeks a declaration that Article 137 of the Limitation Act alone applies to proceedings initiated under SARFAESI Act and Recovery of Debt and Bankruptcy Act, 1993 for calculating the limitation period.

3. It appears that proceedings initiated by the respondent bank against the writ petitioner under the SARFAESI Act ended in favour of the petitioner on 21.6.2013 while the proceedings initiated under the provisions of Recovery of Debt and Bankruptcy Act, 1993 is still in existence. The stand of the writ petitioner is that only Article 137 of the Limitation Act and not Article 62 applies to both the proceedings. Therefore, the writ petitioner is before this court challenging the subsequent proceedings in O.A.No.247 of 2015 on the file of the Debts Recovery Tribunal 2, Chennai.

4. Be that as it may, as against the proceedings initiated before the Debts Recovery Tribunal, the petitioner has an efficacious remedy before the Debts Recovery Appellate Tribunal. However, the petitioner expresses some bad experience in the Debts Recovery Appellate Tribunal. If the petitioner is not prepared to approach the Debts Recovery Appellate Tribunal, Chennai, on the point of res judicata or on the point of limitation, he can file an application or appeal as the case may be before the Debts Recovery Appellate Tribunal, Allahabad or Mumbai.

5. The petitioner further seeks to stay the present proceedings before the Debts Recovery Tribunal 2, Chennai. It is for the petitioner to make such prayer also before the Debts Recovery Appellate Tribunal and the same shall be considered and decided by the Debts Recovery Appellate Tribunal on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Presiding Officer
Debts Recovery Tribunal 2 Chennai
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5th Floor Dewa Towers
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Chennai-600 008

+2cc to Mr.Ashok Surana,party in person , S.R.No.22519

W.P.No.8017 of 2017

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