

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Petition Nos.10649 & 10650 of 2017 and
W.M.P.Nos.11594 & 11595 of 2017

A.R.Kasilingam ... Petitioner in both W.Ps

Vs

1.The Presiding Officer,
Debts Recovery Tribunal - 1,
Spencer Plaza Building,
Anna Salai,
Chennai - 600 002.

2.State Bank of India,
Saligramam Branch,
Represented by its,
Authorised Branch Manager,
No.49, Arcot Road,
Saligramam,
Chennai - 600 093.

3.S.Thanigaivel ... Respondents in both W.Ps

Prayer in W.P.No.10649 of 2017:- Writ petition has been filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records pertaining to the order passed by the first respondent Tribunal in I.A.Nos.66 of 2016 in O.A.No.144 of 2012 on 07.03.2017 and quash the same and direct the first respondent to direct the second respondent herein to afford a reasonable opportunity to the petitioner herein permitting him to cross examine the witnesses produced by the second respondent with reference to documents filed and produced.

Prayer in W.P.No.10650 of 2017:- Writ petition has been filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records pertaining to the order passed by the first respondent Tribunal in I.A.Nos.65 of 2016 in O.A.No.144 of 2012 on 07.03.2017 and quash the same and direct the first respondent to direct the second respondent herein to afford a reasonable opportunity to the petitioner herein to produce and file the documents listed and required to be produced in I.A.No.65 of 2016 in O.A.No.144/2012 to cross examine the applicant's witnesses with reference to documents filed by them.

For Petitioner in
both W.Ps : Mr.K.Hariharan,

For R.1
in both W.Ps : Tribunal

For R.2 in
in both W.Ps : Mr.P.Elayarajkumar for
Mr.Ramalingam Associates

For R.3
in both W.Ps : Unserved, not ready notice

COMMON ORDER

(Judgment of the Court was delivered by Huluvadi G.Ramesh.J)

Seeking to quash the orders made in I.A.No.66 of 2016 in O.A.No.144 of 2012 and in I.A.No.65 of 2016 in O.A.No.144 of 2012 on 07.03.2017 and to direct the first respondent to direct the second respondent herein to afford a reasonable opportunity to the petitioner herein permitting him to produce and file the documents listed and required to be produced in I.A.No.65 of 2016 in O.A.No.144/2012 and to cross examine the petitioner's witnesses with reference to documents filed by the second respondent, the petitioner is before this Court with these writ petitions.

2.We have heard the learned counsel for the petitioner and the learned counsel for the second respondent.

3.The learned counsel for the petitioner relying on a judgment of the Mumbai High Court in Sonu Textiles, Mumbai & Others v. Punjab National Bank, Mumbai (2008(5) AIR Bom R 702 (DB)) would state that Rule 12(6) of the Debts Recovery Tribunal (Procedure) Rules 1993, does not make it mandatory, that every witness whose affidavit is filed has to be tendered for cross

examination. However, the Tribunal shall, for sufficient reasons to be recorded, order such witness to be present for cross examination if it is necessary to do so. However, when such being the case, when the Debts Recovery Tribunal has rejected the case of the petitioner for summoning the witness for cross examination, it is a matter for re-appreciation by the Debts Recovery Appellate Tribunal based on certain facts and circumstances of the case. This Court under writ jurisdiction cannot re-appreciate the matter which was dealt with by the Debts Recovery Tribunal.

4. In the result, the writ petitions are disposed of with a direction to the petitioner to file appropriate petitions against the impugned orders before the Debts Recovery Appellate Tribunal. At this juncture, the learned counsel for the petitioner submitted that the matter is posted this month for argument before the Debts Recovery Tribunal. In such view of the matter, the Debts Recovery Tribunal is directed to accommodate the petitioner to move the Debts Recovery Appellate Tribunal for appropriate orders. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jbm
To

1. The Presiding Officer,
Debts Recovery Tribunal - 1,
Spencer Plaza Building,
Anna Salai,
Chennai - 600 002.

2. Authorised Branch Manager,
State Bank of India,
Saligramam Branch,
No.49, Arcot Road,
Saligramam, Chennai - 600 093.

+2cc to M/S.K.Hariharan, Advocate Sr.38293, 38292
+2cc to M/S.Ramalingam & Associates Advocate Sr.39370

W.P.Nos.10649 & 10650 of 2017

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