

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.04.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

Writ Petition No.11053 of 2017 and
W.M.P.No.12001 of 2017

M/s.Ganekar @ Co
Proprietor Sri.V.Elangovan
No.71, Elaya Mudali Street,
Old Washermanpet,
Chennai - 600 021.

.. Petitioner

Vs

1.The Canara Bank,
Represented by its authorized Officer,
Tondairpet Branch,
No.50G A Road, Tondairpet,
Chennai - 21.

2.The Debt Recovery Tribunal - II,
Represented by Registrar,
Anna Salai, Chennai - 600 002.

3. M.Velayutham

... Respondents

Writ Petition filed under Section 226 of the Constitution of India seeking a writ of certiorarified Mandamus calling for the records of the order dated 18.04.2017 of the second respondent made in S.A.No.57 of 2017, and quash the same passing without considering the memo reporting full compliance and directing the first respondent to consider and adjudicate interim application on merits and pass orders.

For Petitioner : Mr.R.Chandrasudan

ORDER

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

Heard the learned counsel for the petitioner. This Court is proposed to dispose of the writ petition at the admission stage itself. No notice is ordered to the respondents since, the order which is being passed will not cause any prejudice to the respondents.

2.The petitioner is the appellant in S.A.No.57 of 2017 before the Debts Recovery Tribunal - II, Chennai. While admitting the Second Appeal, the Debts Recovery Tribunal has granted interim order directing the parties to maintain status quo on condition that the petitioner shall pay 15% of the due amount, on or before 17.04.2017. Subsequently, when the matter was came up for hearing before the Tribunal on 18.04.2017, the petitioner reported that he had deposited a sum of Rs.2,75,000/- including the amount which had already been deposited by the petitioner. According to the petitioner, 15% of the due amount stood paid by him as directed by way of interim order. Hence, this was not appreciated by the Tribunal. According to the Tribunal, the conditional order was not complied with by the petitioner. Therefore, the Tribunal has vacated the interim order. Challenging the same, the petitioner is before this Court with this writ petition.

3.We find no merit at all in this writ petition since, it was filed against the interim order of the Tribunal directing the petitioner to pay 15% of the due amount from out of the dues as on the date of the interim order. Therefore, the Tribunal was right in holding that any amount prior to the date of the interim order shall not be counted for the purpose of considering that the petitioner whether paid 15% of the due amount in pursuance of the conditional order or not. Thus, the Tribunal was right in vacating the interim order granted earlier. Hence, this Court is not inclined to interfere with the order passed by the Tribunal. However, the petitioner is at liberty to approach the Tribunal to seek for modification of the said order by filing appropriate petition.

4.With the above observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

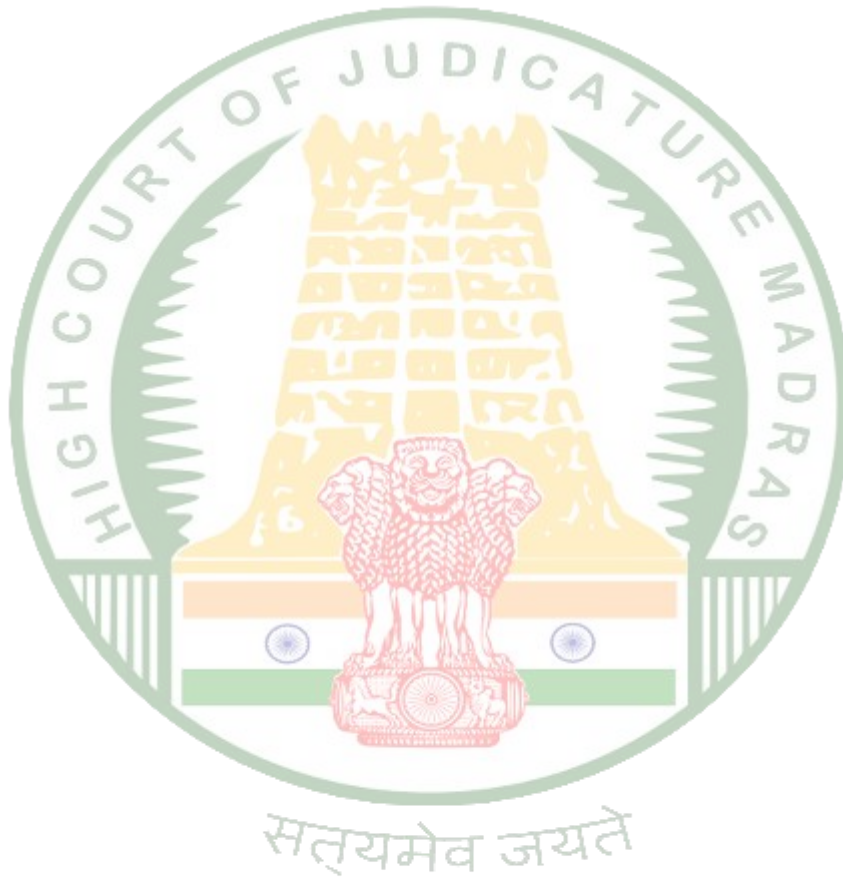
1. The Authorized Officer,
The Canara Bank,
Tondairpet Branch,
No.50G A Road, Tondairpet,
Chennai - 21.

2. The Registrar,
The Debt Recovery Tribunal - II,
Anna Salai, Chennai - 600 002.

+1 CC to Mr.R. Chandrasudan, sr 26300

W.P.No.11053 of 2017

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