

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9/2/2017

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

WRIT PETITION NO.3270 OF 2017
AND
WMP NOS. 3229 AND 3230 OF 2017

1. K.A.Gopal
 2. A. Chandrakumar
 3. K. Kuppan
 4. B. Maniraj
- ...Petitioners

Vs

- 1.The Recovery Officer
Debts Recovery Tribunal
1670 Trichy Road
Ramanathapuram
Coimbatore 641 045.
- 2.The Registrar
Debts Recovery Tribunal
1670 Trichy Road
Ramanathapuram
Coimbatore 641 045.
- 3.The Branch Manager
State Bank of India
Udhagamandalam
The Nilgiris.
- 4.K. Manikkavasagam

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the Hon'ble Debt Recovery Tribunal, Coimbatore, passed in Appeal Sr.No.10408/2016 dated 20/12/2016 and 27/12/2016 and quash the same and consequentially direct the second respondent to number the waiver application

filed by the petitioner in I.A.SR.No.10587 of 2016 in Appeal SR.No.10408/2016 dated 27/12/2016.

For petitioners ... Ms.Aishwarya S. Nathan
for Mr.Srinath Sridevan

- - - - -
O R D E R

Borrowers have filed an appeal along with an application under Sections 30 (1) and 19 (25) of the RDDBFI Act before the Debts Recovery Tribunal, Coimbatore.

2. After scrutinising the appeal and connected petitions, Registrar of the Tribunal, vide docket order, dated 20/12/2016 has returned the appeal and connected petitions, for compliance/curing of certain defects. For brevity, docket order, dated 20/12/2016, is reproduced hereunder:-

"Return the appeal along with connected petitions for compliance/curing."

3. Thereafter, another docket order, dated 27/12/2016, has been passed by the Registrar and that the same is also incorporated.

"Main Appeal in S.R.No.10408 of 2016 is returned for carrying defects, vide notice dated 20/12/2016 in S.R.No.10408 of 2016. This I.A may also be returned. For orders."

4. Prayer sought for in the instant writ petition is to call for the records of the Debts Recovery Tribunal, Coimbatore, passed in Appeal Sr.No.10408/2016, dated 20/12/2016 and 27/12/2016, respectively, and to quash the same. Borrowers/writ petitioners have sought for a consequential prayer, to direct the Registrar, Debts Recovery Tribunal, Coimbatore/second respondent, to number the waiver application, filed by the writ petitioners, in I.A.SR.No.10587 of 2016 in Appeal SR.No.10408 of 2016, dated 27/12/2016.

5. We have heard Ms.Aishwarya S.Nathan for Mr.Srinath Sridevan, learned counsel for the writ petitioners and perused the materials available on record.

6. Prayer sought for is misconceived, for the reason that what has been done by the Registrar, Debts Recovery Tribunal, Coimbatore is only a return of the appeal papers and connected records for compliance of certain defects. It is not a case of rejection of the appeal in SR.No.10408/2016. No judicial order has been passed by the Tribunal. If the defects pointed out by

the Registry are not necessary, and not required to be complied with, it is the duty of the borrowers, to bring it to the notice of the Registrar of the Debts Recovery Tribunal, Coimbatore and still the Registry persists with the objections, a further request, ought to have been made, to post the appeal and connected petitions before the Tribunal for maintainability.

7. During the course of hearing, when a question was posed to the learned counsel for the writ petitioners as to whether the appeal and connected papers returned, on 20/12/2016 and 27/12/2016 have been represented, she was not in a position to answer the same.

8. Be that as it may, since the appeal and connected papers were returned by the Registrar of the Debts Recovery Tribunal, Coimbatore, only for compliance/curing, the prayer sought for by the petitioner, is not maintainable.

9. In view of the above, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Recovery Officer
Debts Recovery Tribunal
1670 Trichy Road
Ramanathapuram
Coimbatore 641 045.

2.The Registrar
Debts Recovery Tribunal
1670 Trichy Road
Ramanathapuram
Coimbatore 641 045.

+1cc to Srinath Sridevan, Advocate in SR. 8733

Writ Petition No.3270 of 2017

AD(CO)
VR(1/03/2017)