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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.(MD) No.8459 of 2014

and

M.P.(MD) Nos.1 & 2 of 2014

C.Arjunaraja

... Petitioner

-vs-

1. The Authorised Officer
Karur Vysya Bank Ltd.,
No.16, A.A.Road
Gayathri Illam
Gnanaolivupuram, Madurai

2. S.Sathyamohan

3. The Debts Recovery Appellate Tribunal
rep.by its Chair Person
4th Floor, Indian Bank Circle Office
55, Ethiraj Salai, Chennai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the order, dated 04.03.2014, made in RA(SA) No.21/2014, on the file of the third respondent and quash the same.

For Petitioner	:	Mrs.Maria Rosaline for M/s.Vastlaw Associates
For Respondent	:	Mr.Pala Ramasamy for R1 No appearance for R2 & R3

O R D E R

(Order of the Court by **T.S.SIVAGNANAM, J.,**)

Heard Mrs.Maria Rosaline, learned counsel appearing for the petitioner and Mr.Pala Ramasamy, learned counsel appearing for the first respondent - Bank and carefully perused the materials placed on record.

2. None appeared on behalf of the respondents 2 and 3.

3. The writ petitioner is aggrieved by the order, dated 04.03.2014, passed in RA(SA) No.21 of 2014, by the third respondent / Debts Recovery Appellate Tribunal (DRAT). It is an admitted fact that the petitioner, who was the first respondent before the DRAT, did not appear before the Tribunal and



consequently, the Tribunal proceeded ex parte and referring to a decision of the Honourable Supreme Court in Standard **Chartered Bank v. Noble Kumar and others**, reported in **2013 (6) CTC 683**, allowed the appeal and set aside the order, dated 29.11.2013, passed by the Debts Recovery Tribunal, Madurai.

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4. The contention of the petitioner is that the notice sent by the third respondent - DRAT was received by the neighbour and not served on him. However, this plea has not been raised before the Tribunal. Nevertheless, when we peruse the order passed by the Debts Recovery Tribunal, we find that it is a speaking order. Before the Debts Recovery Tribunal, the petitioner had raised various contentions and the SARFAESI Appeal in S.A.No.62 of 2011 filed by him was allowed by a speaking order, dated 29.11.2013. Therefore, even assuming that the third respondent - DRAT was proceeding ex parte in the matter, still the order passed by the third respondent - DRAT should reflect the reasons as to why the reasons recorded by the Debts Recovery Tribunal are not tenable.

5. Considering the fact that the matter is pending before this Court from the year 2014, there is an interim order of injunction in operation and there is an auction purchaser, we deem it appropriate to remit back the matter for fresh consideration.

6. In the result, the writ petition is allowed and the impugned order, dated 04.03.2014, passed by the third respondent - DRAT is set aside and the matter is remanded back to the file of the third respondent - DRAT for fresh consideration and the third respondent - DRAT shall give preference for this matter as the appeal is of the year 2014. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The Proceeding Officer,
Debt Recovery Tribunal,
4th Floor, Indian Bank Circle Office,
55, Ethiraj Salai, Chennai.

+1 cc to M/S.Vast Law associates, Advocate, SR.No.53891

+1 cc to Mrs.J.Maria Rosaline, Advocate, SR.No.53529

+1 cc to Mr.Pala Ramasamy, Advocate, SR.No.53730

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