BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.P.(MD)No.7718 of 2017
and
W.M.P.(MD)No.6012 of 2017

P.Sathya Soul Raj : Petitioner

Vs.

1. The Registrar,
Debt Recovery Tribunal at Madurai,
Madurai.

2. The Authorised Officer,
Chief Manager,
State Bank of Travancore,
19D, North Car Street,
Near Head Post Office,
Personal Banking Branch,
Nagercoil-629 001,
Kanyakumari District. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records in respect of the order passed by the first respondent in S.A.SR.No.3281 of 2017 dated 20.04.2017 and quash the same and direct the first respondent to number the S.A. And proceed with the case as per law.

For Petitioner : Mr.H.Elango
for M/s Samjapa Sing

For Respondents : Mr.Pala. Ramasamy

ORDER
****

[Order of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

2. By consent, the writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is represented by his Power of Attorney one B.Sundararaj. The petitioner is as on now stated to be not in India and he is in abroad. On account of the default committed by the borrower, proceedings have been initiated under the provisions of the SARFAESI Act. Challenging the same, the borrower represented by his Power of Attorney has filed SARFAESI appeal before the Debts Recovery Tribunal under Section 17(1) of the SARFAESI Act.

4. It appears that the petitioner did not file an application to permit him to sue through Power of Attorney. The Debts Recovery Tribunal has rejected the appeal at SR stage citing certain reasons and also distinguishing the decision cited by the petitioner. At the outset, we have to point out that as against the order passed by the Debts Recovery Tribunal, the petitioner has to avail appeal remedy before the Debts Recovery Appellate Tribunal. Without doing so, the petitioner was not justified in approaching this Court by way filing this writ petition.

5. The learned Counsel for the petitioner submitted that the petitioner is ready and willing to settle the entire loan amount and that apart, the re-auction of the borrower's property has been fixed today (25.04.2017).

6. Thus considering the facts and circumstances of the case, we grant liberty to the petitioner to file an appeal before the Debts Recovery Appellate Tribunal as against the impugned order and the period of limitation for filing the appeal is 30 days, which is yet to expire. Therefore, in the interregnum, if any auction is conducted, the confirmation shall not be made till the orders are passed by the Debts Recovery Appellate Tribunal in the petitioner's appeal. The petitioner should file an appeal within a period of 15 days from the date of receipt of a copy of this order. In the meantime, if the petitioner wants to settle the loan amount, it is well open to the petitioner to approach the respondent Bank with appropriate offer for settlement.

7. With the above observations, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Registrar,
Debt Recovery Tribunal at Madurai,
Madurai.

Copy to:
The Section Officer
E.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.Samjapa Sing, Advocate Sr.No.53770

ssl/mrn

vb/skn/rsk/sar3/26.04.2017/3p/4c

W.P.(MD)No.7718 of 2017
25.04.2017