



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2017

CORAM :

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8444 of 2017
and
W.M.P(MD)No.6457 of 2017

M/s.Hiru-Purushothaman Wire Mills,
Rep.by its Sole Proprietor,
P.Hirudayanathan

... Petitioner

vs.

- 1.The Registrar,
The Debts Recovery Appellate Tribunal
at Chennai, Chennai - 600 008.
- 2.The Presiding Officer,
The Debts Recovery Tribunal at Madurai,
Madurai-625 107.
- 3.The Branch Manager,
Bank of India,
19/3, Chairman Shanmuga Nadar Road,
Sivakasi - 626 123.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings dated 13.03.2017 passed in M.A.No.135 of 2009 on the file of the first respondent herein and to quash the same, and direct the second respondent to pass appropriate orders declaring that the petitioner would be entitled to the benefits of the provisions of the guidelines for recovery of dues relating to non performing Assets (NPAs) in BP.BC.11/21.01.040/99-00, dated 27.07.2000 as against the demand of the respondent Bank being the subject matter of M.A.No.1 of 2002 in T.A.No.115 of 2007 on the file of the second respondent herein, within the time frame as may be fixed by this Court.

For Petitioner

: Ms.J.Anu Abinaya
for Ms.J.Anandhavalli

For 3rd Respondent

: Mr.M.Thiyagarajan for
Mr.Pala Ramasamy

O R D E R

(Order of the Court was made by G.R.SWAMINATHAN, J)

The writ petitioner herein questions the order dated 13.03.2017 passed by the Debts Recovery Appellate Tribunal, Chennai, dismissing M.A.No.135 of 2009 filed by the petitioner. The said appeal was filed against the order dated 16 June 2009 passed by the Debt Recovery Tribunal, Madurai in M.A.No.01/2002 in T.A.No.115/2007.

2.The petitioner herein had availed loan facility from the third respondent bank to the tune of Rs.3,90,000/- on 08.07.1985. Admittedly, the writ petitioner is a defaulter. Since the writ petitioner could not repay the loan in full as per the agreement originally entered into with the bank, the bank filed O.A.No.649 of 1998 for recovery of the sum of Rs.14,06,614/- stated to be due in the loan transaction. The recovery proceedings are still pending in T.A.No.115 of 2007. In the meanwhile, in the said pending application, the writ petitioner filed M.A.No.01/2002 offering one time settlement under RBI scheme/guidelines. The said application was opposed by the bank by filing a detailed counter. The Debt Recovery Tribunal dismissed the said application by order dated 16 June 2009, by placing reliance on the earlier decision of this Court reported in 2004(5) CTC 689 - *TNIIC Ltd. Vs. Millennium Business Solutions Pvt. Ltd.*, and 2009 (2) CTC 193 - *Maruti Acetytene Co. Pvt. Ltd. Vs. Central Bank of India*. The said order passed by the Debt Recovery Tribunal was taken on appeal before DRAT by filing M.A.No.135 of 2009. The appellate Tribunal also dismissed the appeal as being devoid of substance. Against this order, the present writ petition has been filed.

3.In order to give one more opportunity to the parties to bury the hatchet, this Court called upon the writ petitioner to file an affidavit setting out a reasonable offer. The writ petitioner filed an affidavit dated 03 May 2017 offering to pay a sum of Rs.6.36 lakhs in full and final settlement of the respondent bank's claim. Though an improvement was subsequently made, the same is not acceptable to the third respondent bank.

4.The learned counsel for the third respondent stated that the offer of the writ petitioner is too low. When no consensus could be arrived at between the writ petitioner and the third respondent bank, it is not for this Court to issue a mandate compelling the third respondent bank to agree to an one time settlement.



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5. We find no merit in this writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (P&A)

/True Copy/

Sub-Assistant Registrar

To

1. The Registrar,
The Debts Recovery Appellate Tribunal
at Chennai, Chennai - 600 008.

2. The Presiding Officer,
The Debts Recovery Tribunal at Madurai,
Madurai-625 107.

+One cc to M/s.J.Anandhavalli, Advocate, SR.No.69542

skm/Aul
RL/4C/3P/KP/SAR1/23/8/2017

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