



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2017

CORAM:

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD) Nos.18373 & 18374 of 2013
and
M.P. (MD) Nos.1 & 1 of 2013

M/s.Kohinoor Enterprises & Chits
rep.by its Partner
Dandayutham
No.326/6, 1st Floor
K.S.P.Complex, Jawahar Bazzar
Karur-01 ... Petitioner in W.P.(MD) No.18373 of 2013

M/s.Kohinoor Enterprises & Chits
rep.by its Partner
A.R.Sheik Dawood
No.326/6, 1st Floor
K.S.P.Complex, Jawahar Bazzar
Karur-01 ... Petitioner in W.P.(MD) No.18374 of 2013

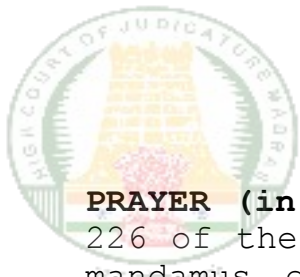
-vs-

1.The Recovery Officer
Debts Recovery Tribunal
Melur Road, Madurai

2.The Central Bank of India
Karur Branch
Sengunthapuram Main Road
Karur

3.N.Chinnammal ... Respondents in both W.Ps.

PRAYER (in W.P. (MD) No.18373 of 2013): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the order, dated 06.09.2013, of the first respondent returning the claim application of the petitioner made in I.A.Sr.No.5820 of 2013 and quash the same and consequentially direct the first respondent to number the claim application of the petitioner made in I.A.Sr.No.5820 of 2013 and decide the same on merits in accordance with law.



PRAYER (in W.P. (MD) No.18374 of 2013): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the order, dated 06.09.2013, of the first respondent returning the claim application of the petitioner made in I.A.Sr.No.5822 of 2013 and quash the same and consequentially direct the first respondent to number the claim application of the petitioner made in I.A.Sr.No.5822 of 2013 and decide the same on merits in accordance with law.

For Petitioner : Mr.K.Govindarajan
(in both W.Ps.)

For Respondents : Mr.B.Rajesh Saravanan for R2
(in both W.Ps.) No appearance for R1 & R3

C O M M O N O R D E R

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

Since the issue involved in both the writ petitions are identical and the prayer sought for are similar, they have been heard together and are being disposed of by this common order.

2. Heard Mr.K.Govindarajan, learned counsel appearing for the petitioners, Mr.B.Rajesh Saravanan, learned counsel appearing for the second respondent and perused the materials produced.

3. The petitioners have filed these writ petitions challenging the endorsement made by the first respondent returning the applications filed by them seeking for release of amount along with interest. The first respondent returned the petitioners' applications with an endorsement indicating that the sale proceeds in respect of their property have already been released to the Bank and there is no balance lying with them. Further, there is no provision in the RDDB Act for entertaining such a prayer from the third party.

4. We are of the considered view that the endorsement made by the first respondent is perfectly correct and the first respondent having become functus officio is not entitled to reopen the matter by entertaining such applications at the instance of the petitioners / third party. Therefore, the challenge to the return endorsement, dated 06.09.2013, by the first respondent has to necessarily fail and the writ petitions are, therefore, liable to be dismissed.

5. In the result, both the writ petitions fail and they are dismissed. However, we make it clear that the dismissal of the writ petitions will not in any manner prejudice the rights of the petitioners to workout their remedy pursuant to the decree said to



have been obtained against the third respondent. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar

To

The Recovery Officer,
Debts Recovery Tribunal,
Melur Road, Madurai.

+1 CC to M/s. B.RAJESH SARAIVANAN, Advocate, SR No. 19004 (IN BOTH WPS)

+1 CC to M/s.K.GOVINDARAJAN, Advocate, SR No. 50281 (IN BOTH WPS)
KRK

PSM/SV/SAR4/12.04.2017/3P/4C

W.P.(MD) Nos.18373 & 18374 of 2013
and
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