

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.6326 of 2018
and WMP No.7878 of 2018

1. Kalyan Mohan
2. Keerthi Sarayau

... Petitioners

vs.

1. The Debt Recovery Appellate Tribunal
at Chennai,
Ethiraj Salai, Chennai - 600 008.
Rep. by its Registrar.

2. Tamilnadu Mercantile Bank,
Rep. by its authorised Officer,
No.25, Venkatnarayana Road,
T.Nagar, Chennai - 17.

3. Mrs.W.Kasthuri Bai

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records of the 1st respondent dated 31.08.2017 in I.A.No.1377 of 2017 in R.A.S.A.90/2013 quash the same.

For Petitioner : Mr.Niranjan Rajagopalan
for M/s.G.R.Associates

ORDER

(Order of the Court was delivered by S.MANIKUMAR, J)

Challenging the order of the Debts Recovery Appellate Tribunal, Chennai, made in I.A.No.1377 of 2017 in RA (SA) No.90 of 2013 dated 31.08.2017, instant writ petition has been filed.

2. In I.A.No.1377 of 2017 in RA (SA) No.90 of 2013 dated 31.08.2017, the Debts Recovery Appellate Tribunal, Chennai, has directed pre deposit of Rs.25 Crores. Debts Recovery Appellate Tribunal, Chennai, has directed IA to be listed on 28.09.2017 for confirmation.

3. On this day, when the writ petition came up for admission, Mr.Niranjan Rajagopalan, learned counsel for the petitioner submitted that IA has been dismissed on 28.09.2017

and consequently, appeal in RA(SA) No.90 of 2013, has also been dismissed.

4. It is well settled that an interim order passed, merges with the disposal of the main case. Accordingly, interim order made in I.A.No.1377 of 2017 dated 31.08.2017 merges with the final order made in RA(SA) No.90 of 2013 dated 28.09.2017. On the principle of law that interim order merges with final orders, we deem it fit to consider few decisions.

(i) In South Eastern Coalfields Ltd v. State of MP and Others reported in (2003) 8 SCC 648, the Hon'ble Supreme Court held as follows:

"The scope of the provision is wide enough so as to include therein almost all the kinds of variation, reversal, setting aside or modification of a decree or order. The interim order passed by the court merges into a final decision. The validity of an interim order, passed in favour of a party, stands reversed in the event of a final decision going against the party successful at the interim stage.

(ii) In Prem Chandra Agarwal and Another v. Uttar Pradesh Financial Corporation and Others reported in (2009) 11 SCC 479, the Hon'ble Supreme Court held that once a final order is passed, all the earlier interim orders merge into the final order, the interim orders cease to exist.

(iii) In State of West Bengal and Others Vs Banibrata Ghosh and Others reported in (2009) 3 SCC 250, the Hon'ble Apex Court held that the Interim Order does not decide the fate of the parties to the litigation finally, it is always subject to and merges with the final order passed in the proceedings.

5. In view of the decisions stated supra, nothing survives for adjudication in the instant writ petition filed against an interim order in I.A.No.1377 of 2017 in RA (SA) No.90 of 2013 dated 31.08.2017. Hence, instant writ petition is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CCC)

Sub Assistant Registrar

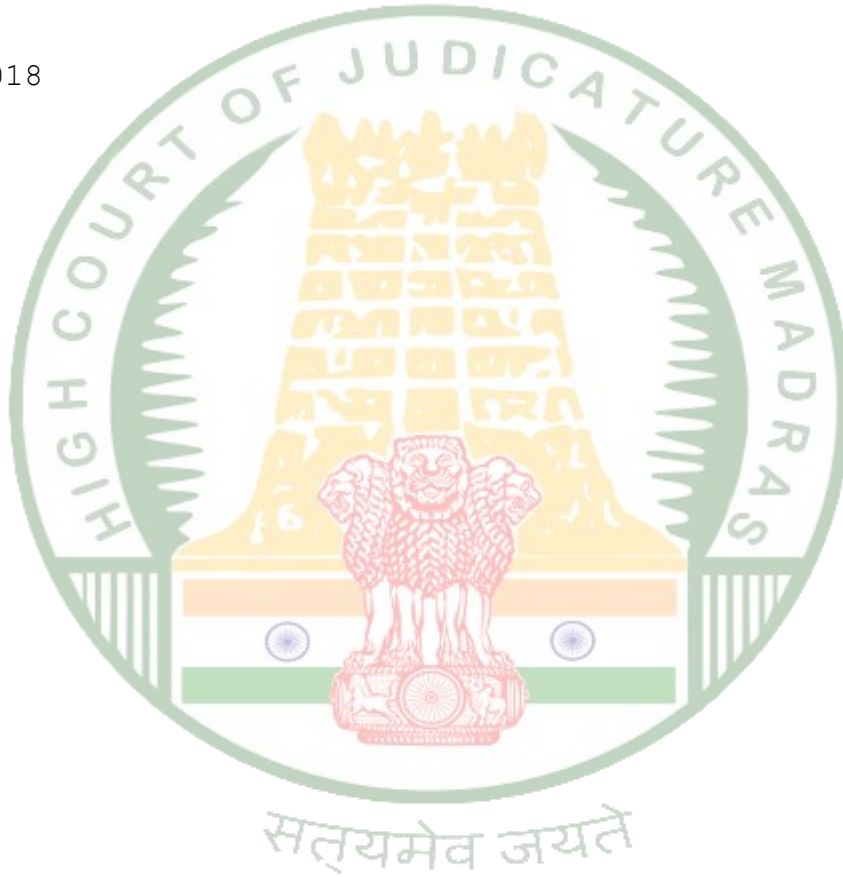
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To

1. The Registrar,
Debt Recovery Appellate Tribunal
Ethiraj Salai, Chennai - 600 008.

W.P.No.6326 of 2018
and WMP No.7878 of 2018

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