

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.23073 of 2018

S.Chrispin Raj

.. Petitioner

v.

1 The Authorised officer
REPCO Bank
Repco Towers, T.Nagar
Chennai - 600 017

2 C.Selvaraj

3 The Registrar
Debts Recovery Tribunal III
Spencers Towers, Chennai

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, calling for the records of Debts Recovery Tribunal No.III, Chennai, relating to the order dated 02.08.2018 in S.A.SR No.10296 of 2017 filed by the petitioner and quash the same and consequently direct the Debts Recovery Tribunal No.III, Chennai to hear and dispose of the aforesaid Securitization Appeal on merits and in accordance with law granting sufficient opportunity to the petitioner to put forth the submissions.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.AL.Ganthimathi

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O R D E R
(Order of the Court made by M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records of the Debts Recovery Tribunal No.III, Chennai, relating to the order dated 02.08.2018 made in S.A.SR No.10296 of 2017 filed by the petitioner and to quash the same and consequently direct the Debts Recovery Tribunal No.III, Chennai to hear and dispose of

the aforesaid Securitisation Appeal on merits and in accordance with law, granting sufficient opportunity to the petitioner to put forth the submissions.

2. The learned Senior Counsel appearing for the petitioner submitted that the petitioner has filed Securitisation Appeal under section 17 of the SARFAESI Act challenging the re-auction sale notice dated 15.11.2017 and the consequent sale certificate dated 01.12.2017 in S.A.SR No.10296 of 2017.

3. By order dated 02.08.2018, Debts Recovery Tribunal No.III, Chennai, passed an order stating that the parties were relegated for a negotiated settlement and sufficient time has been granted to the parties for negotiation and that it is only the quantum of compensation or quantum of money that needs to be negotiated and adjusted and settled between the parties, which is definitely out of scope of the Tribunal and therefore, there is no meritable issues for taking up the Securitisation Appeal.

4. On a perusal of the impugned order, it could be seen that the Debts Recovery Tribunal has not gone into the merits of the matter. Instead of relegating the matter to amicable settlement, when the parties are not willing for settlement, the Debts Recovery Tribunal could have decided the matter on merits.

5. Since the Debts Recovery Tribunal has not passed the impugned order dated 02.08.2018 on merits, we find no reason to interfere with the same. However, we direct the Debts Recovery Tribunal-III, Chennai to take up S.A.SR No.10296 of 2017 and dispose of the same on merits and in accordance with law, after affording due opportunity of personal hearing to all the interested parties, within a period of four months from the date of receipt of a copy of this order. The Debts Recovery Tribunal shall also decide the issue with regard to the maintainability of the Securitisation Appeal filed by the petitioner in accordance with law.

With these observations, the writ petition is dismissed.
No costs.

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Sd/-

Assistant Registrar(V)

// True Copy//

Sub Assistant Registrar

Rj

To

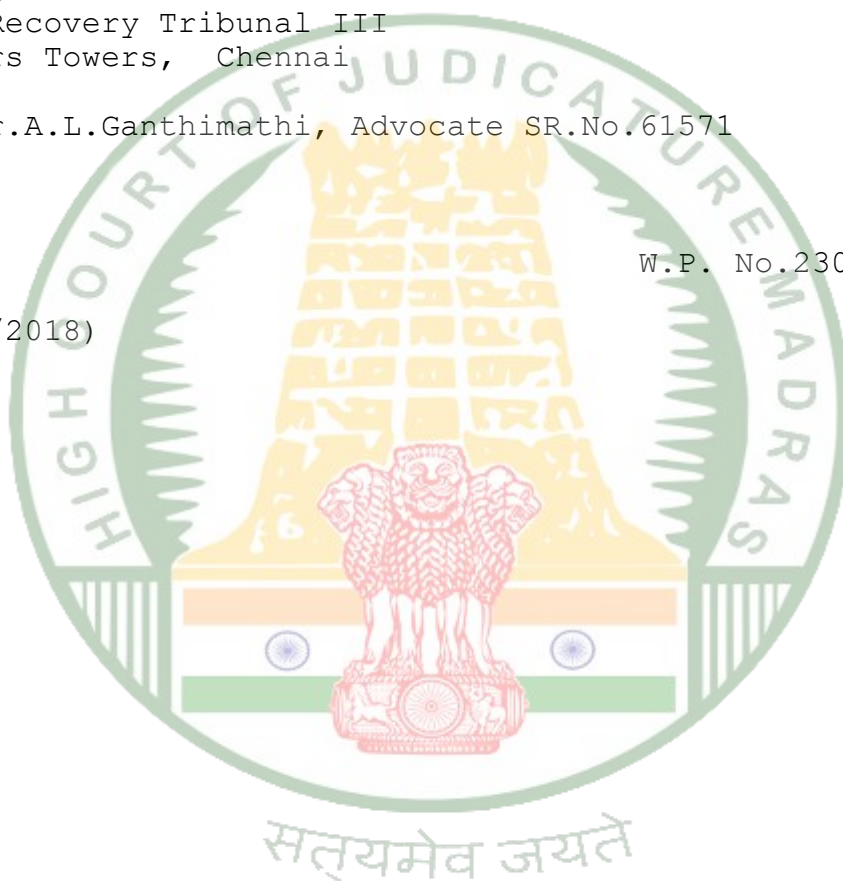
1 The Authorised officer
REPCO Bank
Repco Towers, T.Nagar
Chennai - 600 017

2 The Registrar
Debts Recovery Tribunal III
Spencers Towers, Chennai

+1cc to Mr.A.L.Ganthimathi, Advocate SR.No.61571

RR(CO)
RMP(19/09/2018)

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