IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.10.2018

CORAM :
THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAISWAMY
W.P. No.10651 of 2014 and
M.P.No.1 of 2014

1.Arcot Subramanian Sivasankaran
2.Smt.Girija .. Petitioners

Vs

1.Asset Reconstruction
Company of India Ltd.
"The Ruby" 10th Floor
No.29, Senapati Bapat Marg
Dadar (West) Mumbai - 400 028
Represented by S.Saravanan
S/o. P.Shanmuganathan
(Amended as per court order dated
28.09.2018 in WMP No.27679/2018)

2.The Registrar
Debts Recovery Appellate Tribunal
4th Floor, Indian Bank Circle Office
55, Ethiraj Salai, Chennai .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in R.A.(S.A.) 33 of 2013 on the file of the 2nd respondent dated 11.03.2014 and quash the same.

For Petitioner : Mr.K.J.Parthasarathy

For Respondents: Ms.S.R.Sumathy - for R1
R2 - Tribunal

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

The petitioners have filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records in R.A.(S.A.) No.33 of 2013 on the file of the 2nd respondent dated 11.03.2014 and to quash the same.

2.1 It is the case of the petitioners that in the year 2001, they obtained a Housing Term Loan for a sum of Rs.17,00,000/- [Rupees seventeen lakhs only] repayable in 180 monthly installments of Rs.20,740/- [Rupees twenty thousand seven hundred and forty only] each. The petitioners have also obtained Educational Loan of Rs.3,95,000/- [Rupees three lakhs ninety five thousand only] for the education of their son. Since the petitioners committed default in repaying the loan, the respondent-bank issued a notice under section 13(2) of the SARFAESI Act, dated 11.06.2012 claiming a sum of Rs.15,87,182/- [Rupees fifteen laksh eighty seven thousand one hundred and eighty two only].

2.2 The dispute between the petitioners and the respondent-bank was referred to Lok Adalat and before the Lok Adalat, the parties have settled the matter. A Lok Adalat award in Case No.1765 of 2012, dated 14.08.2012 was passed, whereby, the petitioners agreed to pay a sum of Rs.14.60 lakhs towards full and final settlement within two months from 14.08.2012. In the Lok Adalat, it was also agreed that in default committed by the petitioners, the Bank is entitled to proceed for recovery of amount due to the Bank together with further interest. On 08.12.2012, the 1st respondent intimated the petitioners about the non-compliance of the Lok Adalat award. Subsequently, on 24.12.2012, the petitioners requested for extension of time for complying with the Lok Adalat award. Thereafter, the respondent-bank issued possession notice dated 23.01.2013 to the petitioners.

2.3 Challenging the possession notice and for extension of time, the petitioners filed an appeal in S.A.No.17 of 2013 on the file of Debts Recovery Tribunal-I, Chennai.

2.4 The Debts Recovery Tribunal, by order dated 13.02.2013, disposed of the Securitisation Appeal by directing the respondent-bank to receive an amount of Rs.14.60 lakhs already deposited with the Registrar of the Tribunal by the petitioners as per the Lok Adalat award. The Tribunal further directed the petitioners to pay the respondent-bank a sum of Rs.1,00,000/- [Rupees one lakh only] towards delayed interest and costs incurred as regards publication effected in respect of the possession notice. The petitioners have also deposited a sum of Rs.63,000/- [Rupees sixty three thousand only] by way of cheque, which was also handed over to the Bank's counsel, without prejudice to their contentions and the Tribunal directed the petitioners to pay the balance amount, within two weeks.

3. Aggrieved over the order passed by the Debts Recovery Tribunal, the respondent-bank filed an appeal in R.A.(S.A.) 33 of 2013 on the file of the Recovery Appellate Tribunal, Chennai. The Debt Recovery Appellate Tribunal, by order dated, 11.03.2014, allowed the appeal by a non-speaking order which reads as follows:-

> "The order of the Ld. Presiding Officer, DRT-I, Chennai dated 13.2.2013 made in SA.No.17/20-13 is hereby set aside. In the result the appeal is

allowed. The Ld. Presiding Officer, DRT-I, Chennai is directed to take up the SA itself for fresh disposal in accordance with the provisions of Sec.17 of the SARFAESI Act and pass orders after giving opportunities to both sides."

4. When the Appellate Tribunal is setting aside the order passed by the Debts Recovery Tribunal, it should have passed a detailed order giving reasons for setting aside the order passed by the Debts Recovery Tribunal. Instead, the order has been passed in a single line without assigning any reason. On this ground alone, the order passed by the Debt Recovery Appellate Tribunal is liable to be set aside.

5. So far as the extension of time granted by the Debts Recovery Tribunal is concerned, the learned counsel appearing for the petitioners submitted that the Debts Recovery Tribunal has got jurisdiction to extend the time granted in the Lok Adalat and therefore, in the interest of justice, the Debts Recovery Tribunal has rightly extended the time and permitted the petitioners to pay the amount finalized before the Lok Adalat along with a sum of Rs.1,00,000/- towards interest and costs. In support of his contention, the learned counsel relied upon the following judgments :-

(i) 2005(4) CTC 30 [P.T.Thomas v. Thomas] wherein, the Hon'ble Apex Court held as follows:-

"16. In our opinion, the award of the Lok Adalat is fictionally deemed to be decrees of Court and therefore the courts have all the powers in relation thereto as it has in relation to a decree passed by itself. This, in our opinion, includes the powers to extend time in appropriate cases. In our opinion, the award passed by the Lok Adalat is the decision of the court itself though arrived at by the simpler method of conciliation instead of the process of arguments in court. The effect is the same. In this connection, the High Court has failed to note that by the award what is put an end to is the appeal in the District Court and thereby the litigations between brothers forever. The view taken by the High Court, in our view, will totally defeat the object and purposes of the Legal Services Authorities Act and render the decision of the Lok Adalat meaningless."

(ii) 2012(3) Law Weekly 342 [Shri Lakra Leathers v. Indian Bank Guindy Branch and others] wherein the Division Bench of this Court, following the ratio laid down by the Hon'ble Apex Court in the judgment reported in 2005(4) CTC 30 [P.T.Thomas v. Thomas], held that the Debts Recovery Tribunal has got jurisdiction to extend the time limit prescribed under the Lok

Adalat award.

6. From the ratio laid down by the Division Bench of this Court, it is clear that the Debts Recovery Tribunal has got jurisdiction to extend the time limit prescribed under the Lok Adalat award. The Debts Recovery Tribunal has rightly extended the time and directed the petitioners to make the payment along with a sum of Rs.1,00,000/-[Rupees one lakh only] towards interest and costs. The order passed by the Debts Recovery Tribunal is just and proper.

7. In view of the ratio laid down in the above referred judgments, relied upon by the learned counsel for the petitioners, we find no ground to interfere with the order passed by the Debts Recovery Tribunal.

8. For the reasons stated above, the order passed by the Debt Recovery Appellate Tribunal is set aside, the order passed by the Debts Recovery Tribunal, Chennai is confirmed. The Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To
1. Mr. S.Saravanan
S/o. P.Shanmuganathan
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Company of India Ltd.
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Dadar (West) Mumbai - 400 028

2.The Registrar
Debts Recovery Appellate Tribunal
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+3ccs to Mr.K.J.Parthasarathy, Advocate, S.R.No.69063

W.P. No.10651 of 2014 and
M.P.No.1 of 2014

AK(CO)
rrs 25/10/2018