

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Twenty Second day of June Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE S. MANIKUMAR

and

THE HON`BLE MR.JUSTICE SUBRAMONIUM PRASAD

WMP No.14297 of 2018

in WP.No.12242 of 2018

M.GANGADARAN

[PETITIONER]

Vs

1 PUNJAB & SIND BANK
INTERNATIONAL BANKING DIV.,
TIRUPPUR 641 604

[RESPONDENTS]

2 THE RECOVERY OFFICER
DEBTS RECOVERY TRIBUNAL, COIMBATORE,
TRICHY ROAD, RAMANATHAPURAM, COIMBATORE 45

3 S.M.JAWAHAR HUSSAIN

4 THE REGISTRAR, THE DEBT
RECOVERY APPELLATE TRIBUNAL AT CHENNAI.4TH
FLOOR, INDIAN BANK CIRCLE OFFICE, 55, ETHIRAJ
SALAI, CHENNAI.TAMILNADU 600 008.

R4-AMENDED AS PER ORDER DT.17/05/18 BY RSMJ & MDIJ IN
WMP.14564/18 IN WP.12242/18

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to stay the operations of the orders of the 4th respondent dated 17.04.2012 made in MA.NO.181/2007 (against Appeal No.6/2008 in R.P.No.26/2003 in T.A.No.212/2002 on the file of DRT, Coimbatore) (in WMP.No.14297/2018) pending disposal of the above WP.No.12242/2018.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.A.PRABHAKAR REDDY, for M/S.APR ASSOCIATES, Advocate for the petitioner and of on behalf of the Respondents the court made the following order:-

(Order of the Court was made by S.Manikumar,J)

Placing reliance on a decision of the Hon'ble Supreme Court, in C.N.Paramasivam and Another Vs. Sunrise Plaza, through Partner and Others, reported in (2013) 9 SCC - 460, Mr.A.Prabhakar Reddy, learned counsel for the petitioner contended that both the Tribunals have erred in ignoring that Rule 57 Schedule II to the Income Tax Act, 1961, is mandatory and therefore, the Tribunals, ought to have set aside the sale, confirmed in favour of the auction purchaser, the third respondent herein.

2. We have gone through the judgment relied on.

3. Material on record discloses that in I.A.No.650 of 2010 in Appeal No.6 of 2018, on the file of the Debts Recovery Tribunal, Coimbatore, auction purchaser/third respondent has filed a counter affidavit, wherein he has contended that right from the date of registration of the sale certificate, he continues to be in possession and enjoyment of the secured asset sold in public auction.

4. While dismissing the appeal in M.A.No.181 of 2017 (Appeal No.6 of 2008), Debts Recovery Appellate Tribunal has permitted the Punjab and Sind Bank, to collect the pre-deposit lying with the Registrar of the Appellate Tribunal. Though the petitioner in W.M.P.No.14297 of 2018 in W.P.No.12242 of 2018, has sought for stay of operation of the entire order made in M.A.No.181 of 2017 dated 17/4/2018, during the course of hearing, learned counsel for the petitioner sought for intervention, in so far as the appropriation of pre-deposit amount, lying with the Tribunal. But this Court is not inclined to grant even the restricted relief, for the reason that for recovery of a sum of Rs.79,47.079/-, recovery proceedings have been instituted by the Bank, under Section 19 (1) of the Recovery of the Debts Due to Bank and Financial Institutions Act, 1993, on 30/10/1998 and for nearly two decades, Bank could not realise the amount. In the event, the petitioner succeeds in the instant writ petition, then he is always entitled to get back the entire amount deposited.

5. For the above said reasons, W.M.P.No.14297 of 2018 is dismissed.

-sd/-

22/06/2018

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 PUNJAB & SIND BANK
INTERNATIONAL BANKING DIV., TIRUPPUR 641 604

2 THE RECOVERY OFFICER
DEBTS RECOVERY TRIBUNAL, COIMBATORE, TRICHY
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xc3 THE REGISTRAR, THE DEBT
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FLOOR, INDIAN BANK CIRCLE OFFICE, 55, ETHIRAJ
SALAI, CHENNAI. TAMILNADU 600 008.

C.C. to M/S.APR ASSOCIATES Advocate on payment of necessary
charges

Order

in
WMP.14297/2018

in
WP.12242/2018

Date :22/06/2018

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