

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. No.30905 of 2014 and
M.P.No.1 of 2014

S.Muruvappan

.. Petitioner

Vs.

1.The Hon'ble Chairperson,
Debt Recovery Appellate Tribunal,
Chennai.

2.Union Bank of India,
Asset Recovery Branch,
rep by its Chief Manager,
No.139, Broadway, Chennai - 600 108.

3.M/s.Saratha's
rep by its Partner,
S.Saravanan & S.Mohanasundaram,
No.141, J.N.Street,
Pondicherry - 605 001.

4.S.Saravanan

5.S.Mohana Sundaram

6.S.Singaravelu

7.S.Sivapalani

8.S.Anadavadivelu

9.S.Sundarambal

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari to call for the records relating to the order dated 23.01.2014 passed by the Debt Recovery Appellate Tribunal, Chennai in I.A.No.565 of 2013 in AIR No.482 of 2013 and quash the same as illegal and void.

For Petitioner : Mr.Anil S.Sandeep

For Respondent : R1 - Tribunal

Mr.S.Srinath Sridevan (R2)

R3 to R5 & R8 - no appearance

R6, R7 & R9 - Not ready in notice

O R D E R

(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorari to call for the records relating to the order dated 23.01.2014 passed by the Debt Recovery Appellate Tribunal, Chennai in I.A.No.565 of 2013 in AIR No.482 of 2013 and to quash the same.

2.The petitioner has filed an appeal in AIR No.482 of 2013 as against the order passed by the Debts Recovery Tribunal - II, Chennai in O.A.No.124 of 2011. The Debts Recovery Tribunal, by order dated 10.05.2013, passed a decree for a sum of Rs.80,57,990.14 together with interest at the rate of 15% per annum. As on the date of filing of the appeal before the Debt Recovery Appellate Tribunal, a sum of Rs.1,09,10,439.14 was due and payable by the petitioner. In the said appeal, the petitioner filed an application in I.A.No.565 of 2013 for waiver of pre-deposit. The Debt Recovery Appellate Tribunal took into consideration that the petitioner has not made any payment after the filing of the appeal and also observed that the petitioner cannot be allowed to enjoy the public money without being directed to repay the same. Taking into consideration all these aspects, the Appellate Tribunal, by order dated 23.01.2014, directed the petitioner to make a pre-deposit of Rs.54,55,220/- on or before 28.02.2014 and also made it clear that in the event of the said deposit was not made on or before 28.02.2014, the I.A., shall stand automatically dismissed. Challenging this order, the petitioner has filed the above Writ Petition.

3.It is pertinent to note that even though the Writ Petition was filed as early as in the year 2014, the petitioner has not made any payment so far towards his liability. It is also pertinent to note that though the Writ Petition was filed on 28.02.2014, the same was re-presented by the petitioner only on 10.11.2014 and the Writ Petition was numbered on 25.11.2014. From the above, it is clear that the petitioner was not diligent in prosecuting the matter in a proper manner.

4.As already stated, since the petitioner has not paid any amount to discharge his liability, the Tribunal has rightly

directed him to make a pre-deposit of Rs.54,55,220/-. The reasoning given by the Debt Recovery Appellate Tribunal is just and proper.

5.In these circumstances, we do not find any reason to interfere with the order passed by the Debt Recovery Appellate Tribunal. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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To

- 1.The Hon'ble Chairperson,
Debt Recovery Appellate Tribunal,
Chennai.
- 2.The Chief Manager,
Union Bank of India,
Asset Recovery Branch,
No.139, Broadway, Chennai - 600 108.

+3 Ccs to Mr.Anil S.Sandeep, Advocate sr 81145, 81496.
+1 CC to Mr.Srinath Sridevan, Advocate sr 81530.

W.P. No.30905 of 2014 and
M.P.No.1 of 2014

SP(05/12/2018)

सत्यमेव जयते

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