

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31/1/2018

C O R A M

The Honourable Mr. Justice S. Manikumar
a n d
The Honourable Mrs. Justice V. Bhavani Subbaroyan

Civil Revision Petition NPD Nos. 4319 and 4320 of 2010

Nu-Tech Associates

Prop Mr. B. Nagi Reddy

56-C Lakshmanaswamy Salai

K.K. Nagar

Chennai 600 078.

... Petitioner in both the petition

Vs

1. Syndicate Bank

Housing Finance Branch

245 R.K. Mutt Road

Mylapore

Chennai 600 004.

2. Smt. B. R. Savithiri

Transport Contractor

No. 5 Sankarlal Jain Street

Nehru Nagar

Chromepet

Chennai 600 044.

3. Mr. R. Ramesh

Prop. M/s. Hi-Tech Almin Fabrics

No. 23 Prem Nagar Colony

South Boag Road, T. Nagar

Chennai 600 017.

... Respondents in

Respondents in CRP no 4320/2010 C.R.P.No.4319 of 2010

1. SYNDICATE BANK

HOUSING FINANCE BRANCH 245 RK MUTT ROAD

MYLAPORE CHENNAI 600 004

2. THIRU D. RAMADAS

TRANSPORT CONTRACTOR NO. 5 SANKARAL JAIN ST

NEHRU NAGAR CHROMPET CHENNAI 600 044

3. SMT B. R. SAVITHIRI

TRANSPORT CONTRACTOR NO. 5 SANKARLAL JAIN ST

NEHRU NAGAR CHROMPET CHENNAI 600044.

... Respondents in
C.R.P.No.4320/2010

Petitions filed under Article 227 of the Constitution of India against the order of the Hon'ble Debt Recovery Tribunal - 1, Chennai, made in O.A.Nos.164 and 165 of 2009, dated 11/8/2010.

For petitioner : Mr.P.Subba Reddy

C O M M O N O R D E R
(Order of the Court was made by S.Manikumar,J)

Civil Revision Petitions have been filed against the orders made in O.A.Nos.164 and 165 of 2009, respectively, dated 11/8/2010.

2. Material on record discloses that while entertaining the Civil Revision Petitions, a Hon'ble Division Bench of this Court, in M.P.Nos.1 and 1 of 2010, in C.R.P.NPD.Nos.4319 and 4320 of 2010, dated 6th December 2010, has granted interim stay of the orders impugned, in so far as the petitioner alone is concerned.

3. On this day, when the matters came up for further hearing, there is no representation on behalf of Syndicate Bank, Chennai, first respondent. Respondent Nos.2 and 3 have not been served.

4. In Original Application No.164 of 2009, dated 11/8/2010, the Debts Recovery Tribunal - I, Chennai, has ordered as hereunder:-

"7. In the result, it is declared that:-

a. The applicant bank is entitled for a Recovery Certificate as against the defendants jointly and severally for a total sum of Rs.10,06,083/- (Rupees ten lakhs six thousand and eighty two only), jointly and severally, together with interest @ 14% p.a., with monthly rests from the date of filing of O.A. (6/10/2009) till the date of repayment and/or realisation along with costs, which includes the advocate fees as per rules.

b. It is further ordered that in case of default of payment by the defendant, the defendant are personally liable for the said amount with interest and costs mentioned above until realisation and the applicant bank is also at liberty to invoke modes of recovery, mentioned in the provisions of Section 25 and 28 of RDDB & FI Act.

8. Recovery Certificate be prepared as per the directions given above of this judgment and issued accordingly. A copy of the order be communicated to the parties concerned, immediately.

9. It is further ordered that 15 days time is granted to the applicant bank to file costs memo with details of interest amounts from the date of receipt of this order, so as to prepare the recovery certificate with costs and future interest and also to direct the Recovery Officer to proceed with the matter in accordance with law. If in case, cost memo has not been filed before the above mentioned time, recovery certificate will be prepared with available records of the case and direction will be given to the Recovery Officer to proceed with the matter in accordance with law."

5. In Original Application No.165 of 2009, dated 11/8/2010, the Debts Recovery Tribunal - I, Chennai, has ordered as hereunder:-

"7. In the result, it is declared that:-

a. The applicant bank is entitled for a Recovery Certificate as against the defendants jointly and severally for a total sum of Rs.10,83,219/- (Rupees ten lakhs eighty three thousand two hundred and nineteen only), together with interest @ 14% p.a., with monthly rests from the date of filing of O.A. (6/10/2009) till the date of repayment and/or realisation along with costs, which includes the advocate fees as per rules.

b. It is further ordered that in case of default of payment by the defendants, the defendants are personally liable for the said amount with interest and costs mentioned above until realisation and the applicant bank is also at liberty to invoke modes of recovery, mentioned in the provisions of Section 25 and 28 of RDDB & FI Act.

8. Recovery Certificate be prepared as per the directions given above of this judgment and issued accordingly. A copy of the order be communicated to the parties

concerned, immediately.

9. It is further ordered that 15 days time is granted to the applicant bank to file costs memo with details of interest amounts from the date of receipt of this order, so as to prepare the recovery certificate with costs and future interest and also to direct the Recovery Officer to proceed with the matter in accordance with law. If in case, cost memo has not been filed before the above mentioned time, recovery certificate will be prepared with available records of the case and direction will be given to the Recovery Officer to proceed with the matter in accordance with law."

6. Orders made in O.A.Nos.164 and 165 of 2009 are final orders, appealable, under Section 20 of the RDDB Act, 1993, which reads thus:-

"20. Appeal to the Appellate Tribunal:-

(1) Save as provided in sub-section (2), any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Act, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter.

2. No appeal shall lie to the Appellate Tribunal from an order made by a Tribunal with the consent of the parties.

3. Every appeal under sub-section (1) shall be filed within a period of thirty days from the date on which a copy of the order made, or deemed to have been made, by the Tribunal is received by him and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(4). On receipt of an appeal under sub-section (1) [or under sub-section (1) of Section 181 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit,

confirming, modifying or setting aside the order appealed against.

(5). The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Tribunal.

(6). The appeal filed before the Appellate Tribunal under sub-Section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal."

7. When attention of Section 20 of RDDB Act, 1993, was brought to the notice of Mr.P.Subba Reddy, learned counsel for the revision petitioner, he reiterated the grounds of challenge and contended that the Tribunal had committed an error in fastening liability, on the revision petitioner also, and that therefore, revision petitions can be heard, on merits. As final orders made in O.A.Nos.164 and 165 of 2009, dated 11/8/2010, are appealable orders, revision petitions are not maintainable. Interim order, if any challenged, can be interfered with, in exercise of powers conferred under Article 227 of the Constitution of India.

8. Hence revision petitions are not maintainable. Petitioner is permitted to assail the correctness of the orders impugned before us, before the Debts Recovery Appellate Tribunal. Civil Revision Petitions are pending from 2010. If the petitioner prefers any statutory appeals, under Section 20 of the Recovery of Debts and Bankruptcy Act, 1993, time spent in litigating before this Court by way of Civil Revision Petitions, is excluded.

9. Learned counsel for the petitioner submitted that within two weeks from the date of receipt of a copy of a copy of this order, statutory appeals would be preferred. Submission is placed on record.

10. Civil Revision Petitions are disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mvs

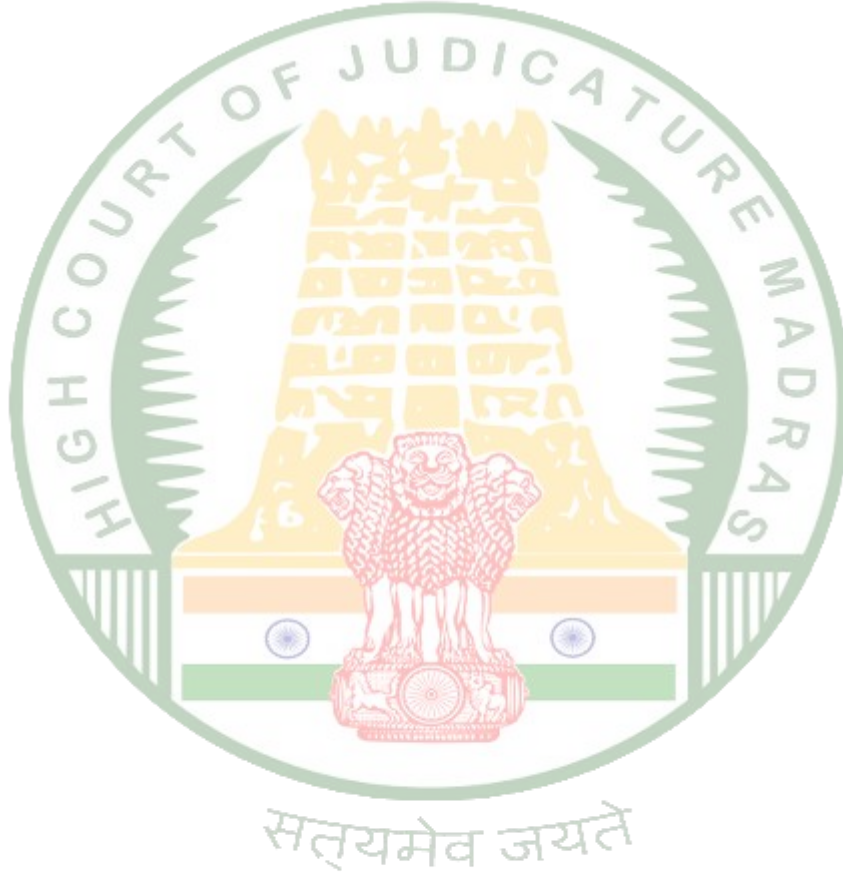
To

1. Syndicate Bank
Housing Finance Branch
245 R.K.Mutt Road
Mylapore
Chennai 600 004.

+2cc to Mr.P.Subba Reddy, Advocate, S.R.No.7319,7320

C.R.P.Nos.4319 and 4320 of 2010

RRK (01/02/2018)



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