



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY
AND
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P (MD) No.7903 of 2018

M/s.Erattaikili Chamber Bricks,
Rep. by its Proprietor SN.Ramachandran. ... Petitioner

Vs.

Canara Bank,
Rep. by its Authorized Officer,
Ramanathapuram Branch,
Ramanathapuram District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the Debt Recovery Tribunal, Madurai in IA No.913 of 2018 in S.A.No.02 of 2018 and quash the same as illegal and consequently directing the respondent not to proceed further in connection with the possession notice issued by him under Section 13 (12) of SARFAESI Act r/w Rule 3 of the Security Interest (Enforcement) Rules 2002, dated 07.12.2017 pending disposal of the main SARFAESI Application in S.A.No.02 of 2018, on the file of the Debt Recovery Tribunal, Madurai.

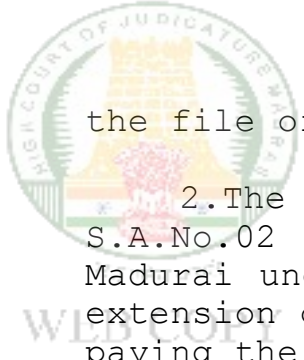
For Petitioner : Mr.M.Solaisamy

For Respondent : Mr.R.Anandha Raj

ORDER

(Order of the Court was made by **M.DURAI SWAMY, J.**)

The petitioner has filed the above writ petition to issue a Writ of Writ of Certiorarified Mandamus, to call for the records on the file of the Debt Recovery Tribunal, Madurai, in I.A.No.913 of 2018 in S.A.No.02 of 2018 and to quash the same and consequently direct the respondent not to proceed further in connection with the possession notice issued by him under Section 13 (12) of SARFAESI Act r/w Rule 3 of the Security Interest (Enforcement) Rules 2002, dated 07.12.2017, till the pendency disposal of the main SARFAESI Application in S.A.No.02 of 2018, on



the file of the Debt Recovery Tribunal, Madurai.

2.The petitioner filed an application in I.A.No.913 of 2018 in S.A.No.02 of 2018 on the file of the Debts Recovery Tribunal, Madurai under Section 19(25) of the RDDBFI Act, 1993, seeking for extension of time in complying with the order, dated 21.03.2018 in paying the second installment of Rs.7,04,000/- to the respondent.

3.It is the case of the petitioner that since his wife had hospitalized, he was not in a position to make the payment of the second installment, as directed by the Debts Recovery Tribunal. The petitioner has also produced a medical certificate issued by Dr.K.Joseph Rajan of Rajans Hospitals Private Limited, Ramanathapuram, to establish that his wife was hospitalized from 26.03.2018 to 02.04.2018.

4.It was also brought to the notice of this Court that the said medical certificate was produced before the Debts Recovery Tribunal along with the typed set of papers in S.R.No.3942 of 2018, dated 03.04.2018.

5.The learned counsel appearing for the petitioner submitted that the petitioner had paid the second installment of Rs.7,04,000/- on 06.04.2018 itself and thereby complied with the directions of the Debts Recovery Tribunal.

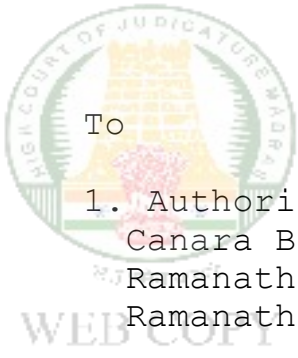
6.The learned counsel appearing for the respondent-Bank submitted that the respondent-Bank has no objection for condoning the delay in paying the second installment of Rs.7,04,000/-.

7.Since the petitioner has satisfactorily explained the reasons for not complying with the directions of the Debts Recovery Tribunal in paying the second installment of Rs.7,04,000/- and that the petitioner has subsequently complied with the direction of the Debt Recovery Tribunal on 06.04.2018, we do not find any reason to reject the request made by the petitioner. In view of the same, the impugned order, dated 06.04.2018 passed by the Debt Recovery Tribunal, Madurai, is set aside and the order of interim stay granted by the Debts Recovery Tribunal, Madurai shall continue till the disposal of the application in S.A.No.02 of 2018. Accordingly, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To

1. Authorized Officer,
Canara Bank,
Ramanathapuram Branch,
Ramanathapuram District.

2. The Deputy Recovery Tribunal,
Madurai.

+ 1 cc TO Mr.M.Solaisamy , Advocate in SR No. 61533

• 1 cc TO Mr.R.Anandha Raj , Advocate in SR No. 61138

ps

AE/RSK/SAR4/27.04.2018/3P/5C

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