



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**
and
THE HONOURABLE **MRS.JUSTICE R.THARANI**

Writ Petition (MD).No.2622 of 2018
and
W.M.P. (MD).No.2815 of 2018

1. M/s.Rajendra Traders,
through it prop. Mrs.S.M.Rani,
W/o. Mr.S.Mahendran,
No.34, Kadarkarai Street,
Theni 625 531.

2. Mrs.S.M.Rani

3. Mr.S.Mahendran

... Petitioners

Vs.

1. Bank of India,
No.49-B/2, Sri Vengala Towers,
T.K.Vijayaram Street, Theni 625 531,
represented by its authorised signatory.

2. The Presiding Officer,
Debts Recovery Tribunal,
Madurai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent's order dated O.A.No.111 of 2010 passed on 30.11.2017 to quash the same and consequently for a direction to transfer all further proceedings in O.A.No.111 of 2010 from the file of the second respondent to any other Debts Recovery Tribunal within Tamil Nadu.

For Petitioners : Mrs.Prabha for
Dr.K.Saravanan

For Respondents : No appearance

**O R D E R**

(Order of the Court was made by **T.S.SIVAGNANAM, J.**)

Heard Mrs.S.Prabha, learned counsel appearing for Dr.K.Saravanan, learned counsel for the petitioners.

2. The petitioner has impugned the order passed by the Debts Recovery Tribunal at Madurai in O.A.No.111 of 2010, filed by the first respondent Bank against the petitioner in the capacity of Proprietor of Rajendra Traders and her personal capacity as well as against her husband Thiru.S.Mahendran.

3. The learned counsel for the petitioner made elaborate submissions with a view to convince the Court that there has been violation of principles of natural justice and the petitioner did not have adequate opportunity to place the material before the Tribunal and therefore, pleaded that the impugned order should be set aside and the matter should be heard on merits.

4. In our considered view, such exercise cannot be done in a writ petition for more than one reason that as against the impugned order, the petitioner has an effective alternative remedy on filing an appeal before the Debts Recovery Tribunal. Therefore, the writ petition is not maintainable. Consequently, the issue as to whether the petitioner was afforded adequate opportunity or not is a question of fact to be agitated before the appellate Tribunal, since the petitioner and two others were represented by a learned counsel before the Debts Recovery Tribunal.

5. Faced with this situation, the learned counsel for the petitioner would submit that the petitioners are willing to approach the Tribunal, but liberty may be granted to raise all contentions.

6. In the light of the above, the writ petition is not maintainable and accordingly, the same is dismissed and the petitioner is at liberty to approach the appellate Tribunal and it is open to the petitioner to raise all factual and legal contentions before the appellate Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar



To

The Presiding Officer,
Debts Recovery Tribunal,
Madurai.

+ 1 cc TO Mr.D.Ramesh kumar , Advocate in SR No. 48724

Akv

AE/KK/SAR3/27.02.2018/3P/3C

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