



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2018

CORAM:

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

WP.(MD) No.3832 of 2018
and
W.M.P.(MD) No.3966 of 2018

Radhakrishnan

... Petitioner

-vs-

1.The Presiding Officer,
Debt Recovery Tribunal,
Madurai.

2.The Authorized Officer,
Tamil Nadu Mercantile Bank Ltd.,
Tiruchirappalli Regional Office,
(For Kumbakonam Branch), Trichy.

3.The Tamil Nadu Mercantile Bank Ltd.,
rep. by its Branch Manager,
No.63, Nageswaran North Street,
Kumbakonam - 612 001,
Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records relating to the impugned order passed by the 1st respondent in I.A.No.373 of 2018 in S.A.No.68 of 2018 dated 15.02.2018 and quash the same as far as the condition imposed against the petitioner.

For Petitioner : Mrs.Porkodi Karnan, for
M/s.Polax Legal Solutions
For Respondents : Mr.N.Dilip Kumar for RR2 and 3

O R D E R

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

Heard Mrs.Porkodi Karnan, learned counsel for the petitioner and Mr.N.Dilip Kumar, learned counsel for the respondent bank.

2.The writ petitioner has filed this writ petition challenging an interim order passed by the Debt Recovery Tribunal at Madurai in I.A.No.373 of 2018 in S.A.No.68 of 2018 dated 15.02.2018.



3. We find that the Tribunal has granted an order of interim stay not to confirm the sale till 17.04.2018 subject to the petitioner paying a sum of Rs.3 lakhs directly to the respondent bank on or before 17.03.2018 as first instalment and another sum of Rs.3 lakhs directly to the respondent bank on or before 16.04.2018 as second instalment. It was made clear that in the event of failure to pay even one of the instalment, the order of interim stay will stand vacated automatically.

4. Admittedly, as against the impugned order, the petitioner has a remedy before the Debt Recovery Appellate Tribunal. Therefore, the petitioner should not by-pass such remedy and file this writ petition. The remedy available to the petitioner is under the SARFAESI Act, which is a special Statute. Therefore, necessarily the petitioner has to avail the appeal remedy under the said Act.

5. The learned counsel for the petitioner expressed one more grievance that though the Tribunal has granted an order of interim stay not to confirm the sale till 17.04.2018 subject to certain conditions and the first of such a condition has to be complied with on 17.03.2018. The respondent bank has issued another sale notice fixing the sale on 08.03.2018.

6. The learned counsel for the respondent bank on instructions from the Officer, who is present in Court submitted that the sale notice fixing the sale on 08.03.2018 is the fourth sale notice. In any event, since time limit prescribed by the Debt Recovery Tribunal is yet to be over, the respondent bank ought not to proceed with the sale scheduled to be held on 08.03.2018. Therefore, we direct the respondent bank to adhere to the said sale notice dated 19.02.2018 till the time limit prescribed by Debt Recovery Tribunal expires i.e. 17.03.2018. The petitioner is at liberty to move the Debt Recovery Appellate Tribunal against the impugned order, if he is aggrieved.

7. With the above observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

+1CC to Mr. N. Dilipkumar, Advocate, SR.No. 50831

+1CC to M/s. Polax Legal Solutions, SR.No. 50858

Copy to:

The Section Officer, E.R. Section,

Madurai Bench of Madras High Court, Madurai (2 Copies)

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