



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.05.2018
CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD) No.11346 of 2018
and
W.M.P(MD) No.10332 of 2018

Saravanan ...Petitioner

Vs.

1. The Recovery Officer,
Debts Recovery Tribunal,
3rd and 4th Floor,
Kalyani Towers,
4/162, Melur Road,
Madurai.

2. The Branch Manager,
State Bank of India,
Bazaar Branch,
Tuticorin.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the proceedings in the demand notice in R.C.No.178 of 2018, dated 08.05.2018, issued by the first respondent herein.

For Petitioner : Mr.D.Saravanan

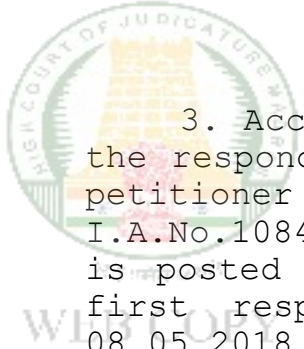
For Respondents : No Appearance for R1
: Mr.S.Sethuraman
Standing Counsel for R2

ORDER

(Order of the Court was made by D.KRISHNAKUMAR.J)

This Writ Petition has been filed to call for the records relating to the proceedings in the demand notice in R.C.No.178 of 2018, dated 08.05.2018, issued by the first respondent herein.

2.The learned Counsel for the petitioner submitted that the petitioner had already deposited a sum of Rs.38,00,000/- and only Rs.9,33,852/- is to be paid by the petitioner. According to the petitioner, the properties worth about Rupees One Crore has been brought for auction. Hence, Challenging the demand notice dated 08.05.2018, the writ petition has been filed.



3. According to the petitioner, O.A.No.300 of 2013 was filed by the respondent bank before the Debts Recovery Tribunal, wherein the petitioner was set ex-parte, against which, the petitioner filed I.A.No.1084 of 2018 to set aside the exparte order and the said I.A is posted for filing Counter on 05.12.2018. In the meantime, the first respondent has issued the impugned demand notice dated 08.05.2018.

4.The learned Counsel for the petitioner would submit that the total due amount is Rs.9,33,852/- and the petitioner has already paid Rs. 2,00,000/- and the balance amount to be paid is Rs. 7,33,852/-.

5.The learned Standing Counsel appearing for the second respondent would submit that the petitioner has to work out his remedy by way of an appeal before the Tribunal and therefore, the writ petition itself is not maintainable. With regard to the outstanding amount, the learned Standing Counsel would submit that the total decree amount is due.

6.By taking note of the submissions made on either side, the petitioner is directed to pay the entire due amount as per his version, ie., Rs.7,33,852/- in two installments to the respondent Bank. The first installment of Rs.3,50,000/- shall be paid on or before 30.06.2018 and balance amount, ie., the second installment, shall be paid on or before 31.07.2018.

7. In the light of the above, the impugned notice dated 08.05.2018 shall be kept in abeyance till 31.07.2018. In the event of non compliance of the above said conditions, the second respondent Bank is at liberty to proceed further in accordance with law.

8.The petitioner is also at liberty to agitate his case before the Tribunal. However, it is made clear that this order would not stand in the way for the Tribunal to decide the issue on merits and in accordance with law.

9.The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Recovery Officer,
Debts Recovery Tribunal,
3rd and 4th Floor,
Kalyani Towers,
4/162, Melur Road,
Madurai.



+1CC to Mr.D.Saravanan, Advocate, SR.No.66219
+1CC to Mr.S.Sethuraman, Advocate, SR.No.66206

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DSK/GK
ES/SKN/RSK/SAR 4/13.06.2018/3P/4C