

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.8128 of 2019

M/s.Forge Tools,
rep.by S.Subramanian,
Proprietor.

.. Petitioner

-vs-

1.The Registrar,
Debts Recovery Appellate Tribunal,
No.55, Ethiraj Salai,
Chennai-600 008

2.M/s.JM Fuinancial Asset Reconstruction Co.
Pvt. Ltd.,
Energy, 7th Floor, Appasaheb Marathe Marg,
Prabhadevi, Mumbai-400 025

3.S.Subramanian

4.Mrs.Rathna Subramanian

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records of the first respondent in AI R 134/2018, confirming the order dated 02.01.2019, in I.A.No.1411 of 2017 in O.A.No.311 of 2016, on the file of the Debts Recovery Tribunal-III, Chennai.

For Petitioner : Mr.Praveen S.Kumaar for
M/s.Rank Associates

For Respondents: Mr.Chethan Sagar for R2
R3 and R4 given up
R1-Tribunal

ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

The borrower M/s.Forge Tools, represented by its Proprietor Mr.S.Subramanian, Venuvampet, Chennai, has filed this writ petition assailing the order, dated 02.01.2019, by which, the learned Debts Recovery Appellate Tribunal, Chennai, dismissed the appeal filed by the present petitioner/borrower M/s.Forge Tools.

2.By the said appeal, the Appellant before the Debts Recovery Appellate Tribunal, had challenged the impugned order of the Debts Recovery Tribunal, by which, the Debts Recovery Tribunal had allowed the amendment of the cause title not only for substitution of the name of the assignee of M/s.JM Financial Asset Reconstruction Company Pvt., Ltd., Mumbai, but also allowed it to raise enhanced claim as given in its application for amendment. The contention raised by the petitioner herein/borrower before the learned Debts Recovery Appellate Tribunal was negatived by the learned Tribunal with the following observation:

"In view of the fact that O.A. is pending and this Appeal has been preferred against interim order of modification of cause title and amount which was purely made on the basis of mistake of calculation and further in view of the fact that on 16.5.2018, Tribunal has expressed the concern and directed the Appellants to make a deposit of Rs.2 Crores, if O.A.remains pending, in such a situation, Appeal being devoid of merits, deserves to be and is hereby dismissed, because there is no mistake in so far as modification of cause title and O.A.amount is concerned."

3.The learned counsel for the petitioner/borrower before us Mr.Praveen S.Kumaar urged that at a belated stage, the learned Debts Recovery Tribunal could not have allowed the said claim of the bank and therefore, the learned Debts Recovery Appellate Tribunal has erred in upholding the said order of the DRT. He relies upon the decision of the Hon'ble Supreme Court of India in the case of T.N.Alloy Foundry Co., Ltd., T.N.Electricity Board and Others [(2004) 3 SCC 392].

4.The learned counsel for the respondent, however, supported the impugned order.

5.Having heard the learned counsels for parties, we are of the opinion that the said order of the learned Debts Recovery Appellate Tribunal does not require any interference by this Court under Article 226 or 227 of the Constitution of

India. The Amendment in question sought by the assignee of the second respondent herein, M/s.JM Financial Asset Reconstruction Co.Pvt. Ltd., is only a claim or a counter claim before the Debts Recovery Appellate Tribunal in the matter. The matter is still pending before the DRAT in the O.A. filed by the said Assignee. The borrower has full right to contest the same in accordance with law before the DRAT.

6.In these circumstances, leaving the parties free to avail their remedies and prove their claims/defence before the Debts Recovery Appellate Tribunal, the present writ petition stands disposed of. However, there is no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk

To:

1.The Registrar,
Debts Recovery Appellate Tribunal,
No.55, Ethiraj Salai,
Chennai-600 008

2.The Debts Recovery Tribunal-III, Chennai

+1cc to M/s.Rank Associates, Advocate SR.82683

+1cc to Mr.V.V.Sivakumar Advocate SR.83094

W.P.No.8128 of 2019

VBA(CO)
CB(15/10/2019)

सत्यमेव जयते

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