

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.7921 of 2019

Stressed Asset Stabilisation Fund
rep by its Dy. General Manager
3rd Floor, IDBI Tower, WTC Complex,
Cuffee Parade, Mumbai - 400 005. .. Petitioner

Vs.

- 1.LSP Agro Food,
12, Ponneri High Road,
Elanthancherry,
Andarkuppam Check Post,
Manali New Town, Chennai - 600 103
also at 298 B, Suramangalam Main Road,
Salem
- 2.BS.Krishnan
- 3.BS.Chandrasekar
- 4.BS.Selvakumar
- 5.BS.Mohankumar
- 6.BS.Arunachalam
- 7.BS.Kumaresan
- 8.BS.Muralidharan
- 9.Lakshmi Vilas Bank,
Branch Office 62-63, Bazzar Road,
Salem Town,
Registered Administrative Office,
Karur - 639 006.
- 10.Karnataka Bank Limited Divya Towers,
Fort Main Road,
Salem - 636 001.
- 11.Agate Finance Limited,
24 (Old No.4), Ramakrishnan Street,
T.Nagar, Chennai - 600 017.

12.M/s.IDBI Bank Limited,
115, Anna Salai,
Saidapet, Chennai - 600 015.

13.Kamalakannan

.. Respondents

(respondents 1 to 12 given up)

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorari calling for the records with regard to the impugned order dated 05.04.2018 passed in AIR No.25 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and quash the same.

For Petitioner : Mr.Varun Srinivasan

For Respondents: Mr.Srinath Sridevan (R13)

R1 to R12 - given up

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner, Stressed Asset Stabilisation Fund, has filed the above Writ Petition to issue a Writ of certiorari to call for the records of the impugned order dated 05.04.2018 passed in AIR No.25 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and to quash the same.

2.The 13th respondent, who is the Advocate Receiver appointed by the Debts Recovery Tribunal - I, Chennai in O.A.No.72 of 2002 (subsequently transferred to the file of the Debts Recovery Tribunal - II, Chennai and re-numbered as O.A.No.172 of 2017) on 25.01.2005, filed an application seeking for additional remuneration of Rs.20,000/- per month before the Debts Recovery Tribunal - II, Chennai. The Debts Recovery Tribunal, by order dated 06.01.2017, directed the petitioner to pay the additional remuneration of Rs.20,000/- from the date of appointment (i.e.) from the year 2005. Challenging this order, the petitioner preferred an appeal in AIR No.25 of 2018 before the Debt Recovery Appellate Tribunal, Chennai and the Appellate Tribunal, by order dated 05.04.2018, modified the order passed by the Debts Recovery Tribunal by directing the petitioner to pay the additional remuneration of Rs.20,000/- from the date of Memo filed by the Advocate Receiver (i.e.) from 06.01.2017. While coming to such a conclusion, the Appellate Tribunal observed that there can be a payment of remuneration on mutual agreement.

3.The Advocate Receiver has also filed a Memo before this Court stating that he has travelled many times to Salem Court for appearance in R.E.A.Nos.449 & 456 of 2008 in R.E.P.No.98 of

2007 in O.S.No.84 of 2006 to safe guard the interest of the petitioner - Bank till the petitioner obtained an order of stay in C.R.P.No.1517 of 2009. Further, the Advocate Receiver has stated that he was served with a warrant of arrest issued by the Labour Court, Salem in R.E.P.Nos.32 to 35 of 2015 in I.D.No.406 of 2014, causing much distress to him. Further, the Advocate Receiver has narrated the work done by him as an Advocate Receiver since the year 2005.

4.The Appellate Tribunal, considering all these aspects, has rightly directed the petitioner to pay the monthly remuneration of Rs.20,000/- from 06.01.2017. The order passed by the Appellate Tribunal is just and proper. We do not find any error or irregularity in the order passed by the Appellate Tribunal. The Writ Petition is devoid of merits and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Registrar,
The Debt Recovery Appellate Tribunal, Chennai.

W.P.No.7921 of 2019

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