

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.15308 of 2019

Maximus ARC Limited,
A Company Incorporated under Company's Act 2013,
59A-18/1A-5A, 3rd Floor,
Sri Plaza, Teacher's Colony, Patamata
Vijayawada - 520 008.
Rep. by Assistant Vice President
Shri K.Hari Krishna ... Petitioner

v.

- 1 Central Bank of India,
MID CORPORATE BRANCH,
48/49, Montieth Road,
Egmore, Chennai - 600 0008
Rep.by its Chief Manager,
Mr.Ujjal Kumar Moitra
- 2 Devi Karumariamman Educational Trust,
No.5, Chellammal Complex,
Janaki Nagar, Arcot Road
Valasaravakkam
Chennai - 600 087
- 3 G.Jayaraman
- 4 Mr.J.Kumaran
- 5 Mrs.Jayalakshmi
- 6 Mrs.J.Anandhi
- 7 Mrs. J.Nirmala
- 8 Debt Recovery Tribunal - II
Spencer Tower, 770- A, 4th Floor,
Anna Salai Chennai - 600 002. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the 8th respondent i.e. the Debts Recovery Tribunal - II to comply with the direction issued by this Court in C.R.P. No.1753 of 2019, dated 08.05.2019.

For Petitioner : Mr.Nithyaesh Natraj

For Respondents : Mr.T.S.Rajeev Gandhi
for M/s. NVS & Associates - for R1

Mr.Vijay Narayan Senior Counsel
for Mr.C.Harsha Raj - for R2

O R D E R

(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writs of Mandamus, directing the 8th respondent, the Debts Recovery Tribunal - II, Chennai, to comply with the direction issued by this Court in C.R.P.(NPD) No.1753 of 2019, dated 08.05.2019.

2. It is the case of the petitioner that the 1st respondent, Central Bank of India and the Bank of India have filed O.A.No.496 of 2016 for recovery of a sum of Rs.136,29,48,050.76/-. Further, it is the case of the petitioner that the Bank of India, vide an Assignment Agreement dated 02.01.2019, had assigned the loan account of the respondents 2 to 7 to the petitioner, Maximus ARC Limited. The petitioner has also stated that pursuant to the Assignment Agreement, they filed a Substitution Petition before the Debts Recovery Tribunal in O.A.No.496 of 2016 and the same as allowed.

3. At this stage, the respondents 2 to 7 filed a Civil Revision Petition in C.R.P.(NPD) No.1753 of 2019 to dispose of I.A.No.454 of 2019 for cross examination of the applicant-Bank witness on merits before proceeding with the final hearing of the main O.A.No.496 of 2016.

4. The Division Bench of this Court, by order dated 08.05.2019, taking note of the consent given by the 1st respondent bank to produce the witness for the cross examination, directed the Assistant General Manager, Central Bank of India, Mid Corporate Branch, Chennai to appear before the Debts Recovery Tribunal for cross examination on 17.05.2019. Further, the Division Bench observed that the final arguments shall be concluded on or before 24.05.2019 so that the order could be passed by the Tribunal on or before 31.05.2019.

5. Now, the petitioner has filed the present Writ Petition to implement the order dated 08.05.2019 passed in C.R.P.(NPD) No.1753 of 2019

6. The learned counsel appearing for the petitioner submitted that the Presiding Officer of the Debts Recovery Tribunal had attained superannuation on 05.06.2019 and that the O.A. is posted for arguments on 10.06.2019, therefore, the Debts Recovery Tribunal should be directed to dispose of the matter on the same day.

7. Mr. Vijay Narayan, learned Senior Counsel, appearing for the respondents 2 to 7, submitted that the assignment made in favour of the petitioner by the Bank of India is an unregistered Agreement and in view of the same, there is no valid assignment made in their favour. Further, the learned Senior Counsel submitted that in these circumstances, the respondents 2 to 7 are going to file an application to recall the order passed by the Debts Recovery Tribunal substituting the petitioner in the place of Bank of India.

8. Though this Court in the earlier Civil Revision Petition had observed that the argument should be concluded on or before 24.05.2019 so that the order could be passed by the Tribunal on or before 31.05.2019, the same could not be complied with by the Tribunal. Now that a new Presiding Officer had taken charge, he cannot be directed to dispose of the OA on a single day i.e. On 10.06.2019 itself. That apart, considering the submissions made by the learned Senior Counsel appearing for the respondents 2 to 7, we are of the considered view that the Tribunal should be granted reasonable time to dispose of the OA.

9. In such view of the matter, we direct the 8th respondent, Debts Recovery Tribunal-II, Chennai, to dispose of the O.A.No.496 of 2016 and also all the Interlocutory Applications, on merits and in accordance with law, as expeditiously as possible, in any event, not later than six weeks from the date of receipt of a copy of this order.

With these observations, the Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Rj

To

- 1 The Chief Manager,
Central Bank of India,
MID CORPORATE BRANCH,
48/49, Montieth Road,
Egmore, Chennai - 600 0008
- 2 The Debt Recovery Tribunal - II
Spencer Tower, 770- A, 4th Floor,
Anna Salai Chennai - 600 002.

W.P.No.15308 of 2019

MP(CO)
SSM(06/06/2019)



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