IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.No.12514 of 2014
and M.P.No.1 of 2014

1.M/s.Coromandel Indag Products India Limited
No.5A, Ram Mansions, 5th Floor,
No.381, Pantheon Road,
Egmore, Chennai - 600 008
rep by its Managing Director
Arun R.Fedrick

2.Indag Finance and Gurantee Company Limited,

No.5A, Ram Mansions, 5th Floor,
No.381, Pantheon Road,
Egmore, Chennai - 600 008
rep by its Managing Director
Arun R.Fedrick ... Petitioners

Vs.

1.The Presiding Officer,
Debts Recovery Tribunal - I,
Government of India, Ministry of Finance,
Department of Financial Services,
6th Floor, Spencer Tower, 770-A, Anna Salai,
Chennai - 600 002, Tamil Nadu, India.

2.M/s.Canara Bank,
Asset Recovery Management Branch,
Spencer Tower II, First Floor,
770-A, Anna Salai, Chennai - 600 002. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of prohibition preventing the 1st respondent from entertaining and deciding the proceedings in M.A.No.24 of 2008 in O.A.No.17 of 1996 pending before Debts Recovery Tribunal - I, Chennai and the same is not maintainable and barred by law.

For Petitioner : Mrs.Hema Sampath, Senior Counsel for M/s.R.Mohan

For Respondents: Mr.K.S.V.Prasad (R2)
R1 - Tribunal

O R D E R

(Order of the Court made by the Hon'ble Chief Justice and M.Duraiswamy, J.)

The petitioners have filed the above Writ Petition to issue a Writ of prohibition preventing the Debts Recovery Tribunal - I, Chennai from entertaining and deciding the proceedings in M.A.No.24 of 2008 in O.A.No.17 of 1996 as the same is not maintainable and barred by law.

2.According to the petitioners, by abusing the process of law, the respondent - Bank has been harassing and torturing them by raising the same issue again and again before the Debts Recovery Tribunal - I, Chennai with an intention to re-open the issue which had already reached finality by way of disposal of the Special Leave Petition (Civil) No.63 of 2008 by the Hon'ble Supreme Court of India.

3.According to the petitioners, after selling the three properties belonging to the 1st petitioner - Company, the claim of the 2nd respondent - Bank stood fully settled and an amount of more than Rs.6 lakhs was in excess and lying with 2nd respondent - Bank.

4.It is pertinent to note that on 30.11.2005, a Consent Decree, based on the memorandum of compromise entered into between the petitioners and the 2nd respondent - Bank as One Time Settlement, was passed by the Debts Recovery Tribunal - I, Chennai in O.A.No.17 of 1996 and T.A.No.422 of 1997 filed by the 2nd respondent - Bank.

5.As per the Consent Decree, the petitioners herein would pay the settlement amount within six months from the date of the Consent Decree out of the Sale Proceeds of the properties of the petitioners and the 2nd respondent - Bank shall produce the original Title Deeds of the said properties and do all such acts which are necessary to conduct the sale either by way of Court auction or private sale. However, the 2nd respondent did not produce the Title Deeds of the properties though the petitioners were frequently requesting them to produce the same in terms of the Consent Decree.

6.Thereafter, the petitioners filed applications in Nos.169 & 170 of 2006 in O.A.No.17 of 1996 before the Debts Recovery Tribunal - I, Chennai seeking extension of time for compliance of the Consent Decree by the 2nd respondent – Bank. By order dated 29.01.2007, the Debts Recovery Tribunal, dismissed both the applications. Challenging the said order, the petitioners preferred appeals in M.A.Nos.32 of 2007 and 121 of 2007 and the Appellate Tribunal, by order dated 27.04.2007, allowed the appeals by extending the time agreed to in the compromise memo. As against the order dated 27.04.2007, the 2nd respondent – Bank filed Writ Petition in W.P.No.22170 of 2007 and this Court, by order dated 05.10.2007 dismissed the Writ Petition. Against the same, the 2nd respondent – Bank filed Special Leave Petition (Civil) No.63 of 2008 before the Hon'ble Supreme Court and the Apex Court, by order dated 18.01.2008 dismissed the Special Leave Petition. Even after the dismissal of the Special Leave Petition, the 2nd respondent – Bank did not comply with the terms of the Consent Decree. Thereafter, the 2nd respondent – Bank filed an application in M.A.No.24 of 2008 in O.A.No.17 of 1996 before the Debts Recovery Tribunal – I, Chennai seeking rectification of the Consent Decree. The petitioners filed their counter and the application is still pending. Now, the petitioners have filed the Writ Petition to prevent the Debts Recovery Tribunal from entertaining the said application.

7.Though the Consent Decree was passed as early as on 30.11.2005, the respondent – Bank has filed the application in M.A.No.24 of 2008 only on 30.09.2008 seeking for rectification of the Consent Decree. Inspite of the fact that the dispute has gone upon to Apex Court, the 2nd respondent – Bank has filed the present application to modify the Consent Decree passed in the year 2005.

8.Since the application filed by the 2nd respondent – Bank for rectification of the Consent Decree is pending and that the petitioners have also filed their counter, we are of the view that the Debts Recovery Tribunal can dispose of the application within a time frame. It is needless to say that the Debts Recovery Tribunal should take into consideration the orders passed by the Hon'ble Supreme Court and this Court while deciding the application in M.A.No.24 of 2008.

9.In these circumstances, we direct the Debts Recovery Tribunal – I, Chennai to dispose of the application in M.A.No.24 of 2008 in O.A.No.17 of 1996, on merits and in accordance with law, taking into consideration the earlier orders passed by the Hon'ble Supreme Court and this Court in various proceedings within a period of five weeks from the date of receipt of a copy of this order.

10.With these observations, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Presiding Officer,
Debts Recovery Tribunal - I,
Government of India, Ministry of Finance,
Department of Financial Services,
6th Floor, Spencer Tower, 770-A, Anna Salai,
Chennai - 600 002, Tamil Nadu, India.

2.M/s.Canara Bank,
Asset Recovery Management Branch,
Spencer Tower II, First Floor,
770-A, Anna Salai, Chennai - 600 002.

+1cc to Mr. K.S.V.Prasad , Advocate SR.No. 6297
+2ccs to M/s.R.Mohan, Advocate SR.No. 5835

W.P.No.12514 of 2014
and M.P.No.1 of 2014

A.SK(05/02/2019)