

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM :

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

W.P.No.28409 of 2019

T.Srinivasan

.. Petitioner

Vs

1 The Reserve Bank of India  
Rep. by its Regional Director  
South Zonal Office  
Rajaji Salai  
Chennai - 600 001.

2 Allahabad Bank  
Rep. by its Authorized Officer - Chief Manager  
Thousand Lights Branch  
No.700, Anna Salai  
Chennai - 600 006.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to record the adjustment of the amount in the sale certificate dated 07.07.2009 registered as Document No.1301/2009 at SRO, Adyar and the amount as per the order dated 28.03.2013 in O.A.No.4/2013 on the file of the Hon'ble DRT-II at Chennai, against the amount payable on the loans advanced by the 2<sup>nd</sup> respondent to the petitioner vide sanction letters dated 29.10.2004 and 30.03.2005, being the subject matter of DRC No.107/2019 on the file of the Recovery Officer, DRT-III, Chennai.

For Petitioner : Mr.S.Anil Sandeep  
For Respondents : No appearance

ORDER

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

The petitioner has filed this writ petition in this Court with the following prayer:

"it is therefore prayed that this Hon'ble Court may

be pleased to issue any appropriate writ or direction in the nature of writ of mandamus directing the respondents to record the adjustment of the amount in the sale certificate dated 07.07.2009 registered as Document No.1301/2009 at SRO, Adyar and the amount as per the order dated 28.03.2013 in O.A.No.4/2013 on the file of the Hon'ble DRT-II at Chennai, against the amount payable on the loans advanced by the 2<sup>nd</sup> respondent to the petitioner vide sanction letters dated 29.10.2004 and 30.03.2005, being the subject matter of DRC No.107/2019 on the file of the Recovery Officer, DRT-III, Chennai."

2. Admittedly, the application for setting aside the ex parte order dated 29.1.2019 passed in O.A.No.197 of 2010 filed by the second respondent/Allahabad Bank, is pending before the learned Debts Recovery Tribunal-III, Chennai.

3. The learned counsel for the petitioner, Mr.S.Anil Sandeep, submitted that the ex parte order was passed by the learned Debts Recovery Tribunal-III, Chennai, on 29.1.2019 and the application for setting aside the ex parte order was filed before the learned Tribunal on 8.7.2019 with a delay of 120 days, which is pending consideration before the said Tribunal as of now.

4. Having heard the learned counsel for the petitioner, we are satisfied that since the petitioner has approached the learned Tribunal for setting aside the ex parte order dated 29.1.2019 passed by the learned Tribunal in O.A.No.197 of 2010, the petitioner should first persuade the learned Tribunal to consider the said application for setting aside the ex parte order passed in O.A.No.197 of 2010. Therefore, we relegate the petitioner back to the Debts Recovery Tribunal-III, Chennai, for considering the petitioner's application for delay condonation as well as the application for setting aside the ex parte order dated 29.1.2019 passed in O.A.No.197 of 2010. We do not express any opinion on the merits of the contentions sought to be raised before us.

5. In view of these circumstances of the case, we direct the petitioner to appear before the learned Debts Recovery Tribunal-III, Chennai, on 22.10.2019 and learned Tribunal may consider the application filed by the petitioner for condonation of delay as well as the application for setting aside the ex parte order dated 29.1.2019 in accordance with law, within the next period of two weeks. For a period of four weeks, however, no further coercive process may be taken against the petitioner. We make it clear that such period may not be extendable under

any circumstances and further course of action will depend on the orders now to be passed by the learned Tribunal, as directed above.

The writ petition is disposed of accordingly. Consequently, W.M.P.No.28101 of 2019 is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To:

- 1 The Regional Director  
Reserve Bank of India  
South Zonal Office  
Rajaji Salai  
Chennai - 600 001.
- 2 The Authorized Officer - Chief Manager  
Allahabad Bank  
Thousand Lights Branch  
No.700, Anna Salai  
Chennai - 600 006.
- 3.The Registrar,  
Depts Recovery,  
Tribunal - III,  
Chennai.

+2cc to Mr.Anil Sandeep.S Advocate, S.R.No. 84491

W.P.No.28409 of 2019

NRL(CO)  
GN(06/11/2019)