

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD) Nos.1615 and 1616 of 2017 and
C.M.P.Nos.7619 and 7620 of 2017

1.M/s.Hind Enamel Co.[Madras]
Rep. by its Partner Mrs.Anila Jalan
No.312, Mint Street, Chennai - 600 003

2. Mrs.Anila Jalan

3.R.K.Jalan

.. Petitioners in C.R.P.(NPD) No.1615 of 2017

1.M/s.Maticon
Rep. by its Partner Mr.R.K.Jalan
No.12, Madhu Roy Bye Lane
Calcutta - 700 006

2. Sri Rajendra Kuamr Jalan @ R.K.Jalan
99, Harrington Road
Chennai - 600 031

.. Petitioners in C.R.P.(NPD) No.1616 of 2017

v.

1. M/s.Canara Bank
Mint Street Branch
Chennai - 600 004

2. Sri Basant Kumar Poddar
3. Smt.Rajkumari Poddar
4. Sri Sharadkuma Dalmia .. Respondents in both CRPs

C.R.P.(NPD) No.1615 of 2017 filed under Article 227 of the Constitution of India against the order dated 05.01.2017 in R.A.No.270 of 2010 on the file of the Debts Recovery Appellate Tribunal, Chennai.

C.R.P.(NPD) No.1616 of 2017 filed under Article 227 of the Constitution of India against the order dated 05.01.2017 in R.A.No.271 of 2010 on the file of the Debts Recovery Appellate Tribunal, Chennai.

For Petitioner : Mr.B.Thilak Narayanan
(in both CRPs)

For Respondents : Mr.G.Bharadwaj - for R1
(in both CRPs) No appearance - for R2 to R4

COMMON ORDER

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

Challenging the orders passed in R.A.Nos.270 and 271 of 2010 dated 05.01.2017, on the file of the Debts Recovery Appellate Tribunal, Chennai, the petitioners have filed the above Civil Revision Petitions.

2. Since the issue involved in both the Civil Revision Petitions are identical, both the Civil Revision Petitions are disposed of by this common order.

3. It is the case of the petitioners that the 1st respondent bank filed civil suits in C.S.Nos. 898 and 891 of 1991 before this Court, which was subsequently transferred to the file of Debts Recovery Tribunal upon enactment of Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and taken on file as T.A.No.68 of 1997 and T.A.No. 901 of 1997 respectively. Thereafter, the said TAs were transferred to the file of Debts Recovery Tribunal-II, Chennai upon its Constitution and re-numbered and taken on file as T.A.No.31 of 2011 and T.A.No.618 of 2001 respectively.

4. During the pendency of the TAs, the parties had entered into a compromise with the 1st respondent bank and agreed to pay a sum of Rs. 40,42,000/- in each of the matter towards discharging the dues of the 1st petitioner firm and were relieved from the liability and TAs against them were dismissed. However, the 1st respondent bank continued the TAs as against the other respondents. Ultimately, the

Debts Recovery Tribunal dismissed the TAs as against the other respondents as well.

5. Aggrieved over the same, the 1st respondent bank preferred an appeal before the Debt Recovery Appellate Tribunal under section 21 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 in R.A.Nos. 270 and 271 of 2010. The 1st respondent bank given up the petitioners in the said appeals. However, the Debt Recovery Appellate Tribunal allowed the appeals holding that the petitioners and the other respondents are jointly and severally liable to discharge the dues. Aggrieved over the same, the petitioners have filed the above Civil Revision Petitions.

6. When the matter is taken up for hearing, Mr.G.Bharadwaj, learned counsel appearing for the 1st respondent bank fairly submitted that since the petitioners have made the payment of Rs.40,42,000/- in each of the matter pursuant to the compromise entered into between them, the order passed by the Debt Recovery Appellate Tribunal as against the petitioners should be set aside and both the Civil Revision Petitions may be allowed.

7. Recording the submissions made by the learned counsel appearing for the 1st respondent, the order passed by the Debt Recovery Appellate Tribunal in R.A.Nos. 270 and 271 of 2010 are set aside in so far as the petitioners are concerned and both the Civil Revision Petitions are allowed. However, we make it clear that the orders passed by the Debt Recovery Appellate Tribunal as against the other respondents shall remain unaltered. No costs. Consequently, the connected miscellaneous petitions are closed.

(V.K.T., CJ.) (M.D., J.)
25.02.2019

Index : Yes/No

Speaking Order/Non Speaking Order

Rj

To

1. The Debt Recovery Appellate Tribunal
Chennai.
2. M/s.Canara Bank
Mint Street Branch
Chennai - 600 004

THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

Rj

C.R.P.(NPD) Nos.1615 and 1616 of 2017 and
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