

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.34745 of 2019 and
W.M.P.Nos.35497 & 35498 of 2019

- 1.M/s.ANS Industries,
rep by its Managing Partner S.Anbarasan,
S.F.No.51/4b, Perumbadi Road,
Nellurpet, Gudiyattam,
Vellore District - 632 602.
- 2.S.Anbarasan Petitioners
- Vs.
- 1.The Registrar,
Debts Recovery Tribunal - I,
Chennai.
- 2.State Bank of India,
rep by its Chief Manager,
Stressed Assets Management Branch,
Red Cross Buildings,
Old No.50, New No.32, Montieth Road,
Egmore, Chennai - 600 008.
- 3.A.Rajakumari
4.A.Anna Durai
5.Tamil Selvi
6.Arivarasan
7.S.Navaneetham
8.S.T.Palanisamy
9.Thennarasi ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 2nd respondent not to take any coercive action against the property of the petitioners and its guarantors until the Debt Recovery Tribunal - I, Chennai takes a final decision in M.A.Nos.64 & 65 of 2019 in T.A.No.86 of 2019.

Petitioner : Mr.S.Anbarasan, party-in-person
For Respondents: Mr.Om Prakash, Senior Counsel
for Mr.P.Elayarajkumar
for M/s.Ramalingam Associates (R2)
R1 - Tribunal
Mr.M.Muruganantham (R6)
R3 to R5 - no appearance

O R D E R

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

Heard the submissions of Mr.S.Anbarasan - petitioner/party-in-person.

2.The 2nd respondent had filed O.A.No.97 of 2015 on the file of the Debts Recovery Tribunal - III, Chennai under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (in short "RDDB" Act) against Thiru.M.Ramasamy and 5 others for recovery of Rs.1,94,02,972.88p due and payable under Term Loan i & ii with subsequent interest thereon and also sale of the Schedule "A" to "D" properties. Pending disposal of the application, the 3rd respondent namely, Manickam died and Tmt.Govindammal and Tmt.Rukmani were impleaded as legal heirs of the deceased 3rd respondent. It appears that O.A.No.97 of 2015 pending on the file of the Debts Recovery Tribunal - III, Chennai was transferred to Debts Recovery Tribunal-I at Chennai and re-numbered as T.A.No.86 of 2019. The Debts Recovery Tribunal - I, Chennai has passed final orders dated 01.08.2019, ordering for recovery of Rs.1,94,02,972.88p and ordered the Transfer Application as prayed for, and also further ordered issuance of Recovery Certificate.

3. The 1st respondent in T.A.No.86 of 2019 filed Miscellaneous Applications for recalling the order dated 01.08.2019 made in T.A.No.86 of 2019 and to re-open T.A.No.86 of 2019 for further proceedings on merits in M.A.Nos.64 & 65 of 2019 respectively and the said applications are still pending. The petitioner/party-in-person, apprehending coercive action is likely to be taken, pending disposal of the said applications has filed the present writ petition praying to issue a Writ of Mandamus directing the 2nd respondent - State Bank of India, Egmore, Chennai forbearing them from initiating any coercive action against the property of the petitioners as well as it's guarantors until the Debts Recovery Tribunal takes a final decision in the said Miscellaneous Applications.

4.The Writ Petition was listed for admission on 17.12.2019 and this Court, on going through the contents of the impugned order, found that while disposing of T.A.No.86 of 2019 the learned counsel for the applicant-SBI/second respondent herein stated that there was no indication as to whether the learned counsel for the defendants were heard or ordered notice, directed the listing of the matter today. Accordingly, the matter is listed today.

5. Mr.Om Prakash, learned Senior Counsel assisted by Mr.P.Elaiyasaraj Kumar, learned counsel appearing for the 2nd respondent would submit that verification of the related records in the Registry of the Debts Recovery Tribunal was also made and there was no indication that after transferring O.A.No.97 of 2015 from the file of Debts Recovery Tribunal - III, Chennai to Debts Recovery Tribunal - I, Chennai and renumbered as T.A.No.86 of 2019, notices have been sent either to the parties or to their counsels and also not put up in the notice board and therefore, leaving it to the decision of this Court.

6. This Court, on the said submission, heard the petitioner/party-in-person also.

7. In the light of the fair submission made by the learned senior counsel appearing for the 2nd respondent that prior to or after ordering transfer of O.A.No.97 of 2015 from the file of Debts Recovery Tribunal - III, Chennai to Debts Recovery Tribunal - I, Chennai and re-numbering of the same as T.A.No.86 of 2019, neither the parties nor the counsels were put on notices, this Court is of the considered opinion that the impugned order dated 01.08.2019 warrants interference. Though the prayer is for mere mandamus, this Court is passing the present order to avoid multiplicity of litigation. The learned counsel appearing for the 2nd respondent - Bank has no objection in setting aside the said order and remanding the matter for fresh adjudication.

8. In the result, the Writ Petition is disposed of and the order dated 01.08.2019 made in T.A.No.86 of 2019 on the file of the Debts Recovery Tribunal - I, Chennai, is set aside and once again remanded to the file of the Debts Recovery Tribunal - I, Chennai and the Registry of Debts Recovery Tribunal - I, Chennai is directed to issue notices to the respondents/ defendants therein as well as their counsels, and give disposal in accordance with law, as expeditiously as possible. It is also made clear that the respondents cannot attempt dilatory tactics with regard to the receipt of the notices sent by the Registry of the Debts Recovery Tribunal - I, Chennai and the

petitioner/party-in-person as well as the learned counsel appearing for the 6th respondent undertakes to do so. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
Debts Recovery Tribunal - I,
Chennai.

2.The Chief Manager,
State Bank of India,
Stressed Assets Management Branch,
Red Cross Buildings,
Old No.50, New No.32, Montieth Road,
Egmore, Chennai - 600 008.

+1cc to M/s.Ramalingam & Associates sr.106058

+1cc to Mr.M.Muruganantham, Advocate sr.105863

+1cc to Mr.S.Anbarasan, party-in-person, Advocate sr.105862

W.P.No.34745 of 2019 and
W.M.P.Nos.35497 & 35498 of 2019

gmr(co)
nr 27/01/2020

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