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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.No.25162 of 2018 and

W.M.P.No.29232 of 2018

Raghunandan

... Petitioner

Vs.

1.M/s.Indian Bank,
ARMB, 4th Floor, Wellington Estate,
No.55, Ethiraj Salai, Chennai - 600 080.

2.M/s.Indian Food Fermentation Ltd.,
Managing Director R.Narayanan,
II Floor, AL-Nur Complex,
No.3, Devanathan Road, Mandaveli,
Chennai - 600 028.

3.R.Narayanan

4.S.Ramkumar

5.ICICI Bank,
Cenotaph Road,
Teynampet, Chennai - 600 018.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari calling for the records culminated in the order dated 02.05.2018 in M.A.No.6 of 2018 on the file of the Debt Recovery Appellate Tribunal, quash the same.

For Petitioner : Mr.Krishna Srinivasan
for M/s.S.Ramasubramaniam & Associates

For Respondents: Mr.Jayesh B.Dolia
for M/s.Aiyar & Dolia (R1)

R2 to R4 - name printed - no appearance

MR.G.Balasubramanian (R5)



O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

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The petitioner has filed the above Writ Petition to issue a Writ of certiorari to call for the records culminated in the order dated 02.05.2018 in M.A.No.6 of 2018 on the file of the Debt Recovery Appellate Tribunal and to quash the same.

2.It is the case of the petitioner that the respondent - Bank filed O.A.No.143 of 2003 before the Debts Recovery Tribunal, Chennai for the issuance of recovery certificate and for recovery of a sum of Rs.1,60,24,431.69p together with interest. The 3rd defendant in the O.A. has filed the above Writ Petition. By order dated 04.04.2018, the Debts Recovery Tribunal decreed the O.A. Thereafter, the petitioner filed an application in M.A.No.24 of 2012 to condone the delay of 1146 days in filing the petition to set aside the order passed in the O.A. on 04.04.2018. Subsequently, the said application (i.e) M.A.No.24 of 2012 itself was dismissed for default on 24.07.2014. Thereafter, the petitioner filed another application in M.A.No.46 of 2014 to restore M.A.No.24 of 2012 which was dismissed for default on 24.07.2014. The Debts Recovery Tribunal, by order dated 20.05.2015, dismissed M.A.No.46 of 2014 finding that the petitioner was not diligent in prosecuting the matter in a proper manner. Further, the Debts Recovery Tribunal refused to accept the reasons given by the petitioner for his non-appearance. Aggrieved over the order passed by the Debts Recovery Tribunal, the petitioner preferred an appeal in M.A.No.6 of 2018 before the Debt Recovery Appellate Tribunal, Chennai. The Debt Recovery Appellate Tribunal also, by order dated 02.05.2018, confirmed the order passed by the Debts Recovery Tribunal and dismissed the appeal.

3.It is pertinent to note that the O.A. was filed by the respondent - Bank on 26.05.2003 for recovery of a sum of Rs.1.60 crores and even after a lapse of more than 16 years, the respondent - Bank has not recovered the money.

4.The petitioner remained exparte before the Debts Recovery Tribunal and therefore, an exparte decree was passed on 04.04.2008. Subsequently, on 14.07.2008, the recovery certificate was also issued against the defendants. Thereafter, the petitioner filed an application to set aside the exparte order. That application was allowed to be dismissed for non-prosecution on 24.07.2014. Though the application to restore M.A.No.24 of 2012 was filed on the very next day (i.e.) 25.07.2014, the conduct of the petitioner would only establish that he was not diligent in prosecuting the matter in a proper



manner and that his aim is only to prolong the matter for an indefinite period. The Debt Recovery Appellate Tribunal, taking into consideration all these aspect, rightly dismissed the appeal and confirmed the order passed by the Debts Recovery Tribunal.

5.We do not find any error or irregularity in the order passed by the Debt Recovery Appellate Tribunal. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

+lcc to M/s.Leela & Co., Advocate Sr.53015

+lcc to M/s.S.Ramasubramanian Associates, Advocate Sr.53215

+lcc to M/s.Aiyar & Dolia, Advocate Sr.52816

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bp[co]
srg 08/08/2019