

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM :

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

W.P.NO.32736 OF 2018
AND WMP NO.37936 OF 2018

D.Purushothaman

.... Petitioner

-vs-

1. The Debts Recovery Appellate Tribunal,
55, 4th floor, Ethiraj Salai, Egmore,
Chennai - 600 008, rep by the Registrar
2. M/s Sriram Housing Finance Ltd,
No.221, 1st Floor, Royapettah High Road,
Mylapore, Chennai -600 004

Head Office at:

Level 3, Wockhardt Towers,
East Wing, Bandra Kurla Complex,
Mumbai - 400 051, represented by its Authorised Officer

3. R.Arul Prakash

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent in AIR (SA) No.179 of 2018 on 06.09.2018, quash the same and consequently direct the Registry of the first respondent to number the Appeal and decide the same on merits.

For Petitioner : Mr.Sirish Chouldhary for
Mr.T.M. Naidu & Co
For R.1 : Tribunal
For R.2 : Notice served
For R.3 : Not ready in Notice

ORDER

(Order of the Court was made by Dr.VINEET KOTHARI,J.,)

The petitioner has approached this Court by way of Writ Petition seeking to issue a Writ of Certiorarified Mandamus to

call for the records relating to the impugned order passed by the first respondent Debts Recovery Appellate Tribunal in AIR (SA) No.179 of 2018 on 06.09.2018, quash the same and consequently direct the Registry of the Debts Recovery Appellate Tribunal to number the Appeal and decide the same on merits.

2. The petitioner claims to be the lessee of the borrower Mr.Arul Prakash. Admittedly the contract document between the petitioner and the borrower is not a registered document. Therefore, whether the petitioner falls under Rule 13(2)(a) or (d) of the Table prescribed under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), for determining the extent of Court Fees is a question of fact to be decided by the Debts Recovery Appellate Tribunal.

3. Therefore, the impugned order passed by the Debts Recovery Appellate Tribunal in AIR (SA) 179/2018 dated 06.09.2018 is set aside and the petitioner is relegated to the Debts Recovery Appellate Tribunal, where, he may file all the documents and on such filing, the Debts Recovery Appellate Tribunal is expected to decide the same and pass speaking Order on such objections of the borrower merits and in accordance with law.

4. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sr

To

The Registrar, Debts Recovery Appellate Tribunal,
55, 4th floor, Ethiraj Salai,
Egmore, Chennai - 600 008

+1cc to Mr.T.M. Naidu & Co, Advocate, S.R.No.94782

W.P.No.32736 of 2018

VD(CO)
CS/18/12/2019