BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P.(MD)(PD).No.520 of 2019

Indian Overseas Bank,
Represented by Its Branch Manager,
Door No.10/185,
Main Road,
Karivalamvanthanallur-627 753,
Tirunelveli District. :Petitioner

Vs.

K.Tamil Selvan :Respondents

Prayer: The Civil Revision Petition has been filed under Article 227 of Civil Procedure Code to direct the Honourable Debt Recovery Tribunal, Madurai to dispose the I.A.No.1371 of 2018 in O.A.No.1484 of 2015 on its file forthwith and allow this civil revision petition.

For Petitioner : Mr.Palaramasamy

ORDER

This Civil Revision Petition has been preferred by the petitioner to dispose of I.A.No.1371 of 2018 in O.A.No.1484 of 2015 on the file of the Debts Recovery Tribunal, Madurai.

2.The learned counsel for the petitioner contended that I.A.No.1371 of 2018 was filed by the Bank in which it is contended that appointment of Advocate Commissioner to sell the repossessed vehicle and deposit of the sale proceedings are accepted by the Tribunal. The above said O.A.No.1484 of 2015 has been filed by the petitioner seeking recovery of a sum of Rs.13,10,585/- along with accrued interests and cost.

3.The learned counsel for the petitioner contended that the respondent availed term loan for a sum of a sum of Rs.11,81,433/- for the purchase of Toyato Innova Car from the respondent bank and executed security documents in favour of the bank. The learned counsel for the petitioner contended that the respondent has been paid only meagre amount and not inclined to clear the due amounts. The petitioner bank initiated proceedings for the recovery of the said money since the respondent has violated the following terms and condition:

The borrower hereby agrees and declares that in default of the payment of money advanced or deemed to be advanced on demand by the Bank or in default of condition set out hereinabove, the Bank shall have power without intervention of the Court to take possession of the said vehicle and sell the said vehicle either by Public auction or by private sale with or without notice and to realize the amount due to the Bank from such sale proceeds after defraying the necessary expenses reserving its right to proceed against the borrower personally fro shortfall, if any"

4.As per the above said terms and condition, the respondent bank repossessed the vehicle and placed the same with the custody of the bank. The bank filed this petition seeking for permission to sell the petition mentioned property by appointing an Advocate Commissioner and to appropriate the sale proceeds to reclaim the loan amount.

5.It is the grievance of the petitioner that the petition filed on 27.03.2018 and there is no progress and hence, the petitioner has preferred the Civil revision petition for speedy disposal of I.A.No.1371 of 2018. The petitioner also brought to the notice of this Court that notice was ordered by the Tribunal and the case is posted for filing counter on the side of the respondent.

6.The petitioner has also brought to the notice of the Court that after taking I.A.No.1371 of 2018, the said I.A is being adjourned to several dates without hearing the same on 10.09.2018 also.

7.It is the further grievance of the petitioner that the said I.A was adjourned for filing counter and once again I.A.No.1783 of 2018 was filed for advance hearing and even the said petition was posted for filing counter on 10.09.2018. Hence, the petitioner's grievance is that the tribunal has adjourned the case from time to time without any valid reason which causes much prejudice to the petitioner herein.

8.Hence, the petitioner sought for earlier disposal of the said I.A.No.1371 of 2018. However, the petitioner is not clear about the pendency of the other I.A.s and the delay caused by the Court also not been clearly averred. If at all, the petitioner is seeking for an earlier disposal, he can very well insist the same before the Tribunal. Hence, it is for the petitioner to take appropriate steps before the Tribunal. It is further submitted that the purpose of recovery of the amount by way of selling vehicle will be very much affected.

9.In view of the above, the Debts Recovery Tribunal is directed to dispose of I.A.No.1371 of 2018 in O.A.No.1484 of 2015 within a period of three months from the date of receipt of a copy of this order.

10.With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-
Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To

The Debt Recovery Tribunal,
Madurai.

+2 CC to Mr.PALA.RAMASAMY, Advocate SR.Nos.54179, 54381.

Order Made in
C.R.P.(MD)(PD).No.520 of 2019
Dated:14.03.2019

CS: (09/07/2019) 3P 4C