



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2019

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.16832 of 2019andW.M.P.(MD) No.13430 of 2019

1)K. Soundrapandi

2)S.Jothilakshmi

3) K.Ayyappan

... Petitioners

Vs.

1) Bank of India,
Through its Authorised Signatory,
Vadipatti Branch,
Omsakthi Building Main road,
Vadipatti - 625 218
Madurai District.

2) The Registrar,
The Debt Recovery Tribunal,
Meenakshi Towers,
Uthankudi Ring Road,
Madurai.

3)C.Jagathesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the impugned proceedings of original application in O.A.No.13 of 2018 dated 05.12.2017 and quash the same as illegal which is filled without genuine proceedings with fabricated schedule and nor following of norms prescribed with for farmers agricultural loan in spite there is the pendency of criminal cases against the Bank officials in the F.I.R.No.433/2016 in C.C.No.392 of 2018 for manipulated the loan amount disbursed to the petitioner borrower.

For Petitioner

: Mr.M.A.Abdul Muthalif

O R D E R

(Order of the Court was made by **K.RAVICHANDRABAABU, J.**)

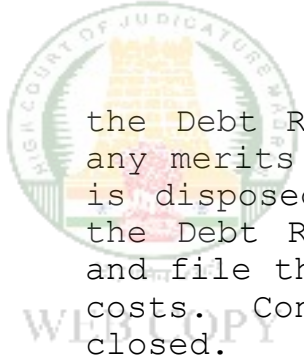
1. This Writ Petition is filed to quash O.A.No.13 of 2018 pending on the file of Debt Recovery Tribunal, Madurai.

2. Heard the learned counsel appearing for the petitioners and perused the materials placed before this Court. The first respondent Bank filed the said O.A. against the petitioners herein for passing an order declaring that a sum of Rs.18,59,752.22 is due from the defendants with subsequent interest and for passing an order for sale of hypothecated items and appropriate sale proceed dues to the applicant Bank and for other dues.

3. According to the first respondent Bank, the first and second defendants/ 1st and 2nd petitioners availed loan from the respondent Bank and executed the loan documents also by creating equitable mortgage for the properties at Anna Nagar Branch, Madurai Town followed by registering the memorandum of deposit of title deeds dated 17.03.2016. The claim of the first respondent Bank before the Tribunal is that the writ petitioners after availing the said loan, failed to repay the same and therefore, filed the said O.A. before the Debt Recovery Tribunal, Madurai. Now, the present writ petition is filed by these writ petitioners seeking to quash the said O.A. by contending that they were cheated by the respondent Bank with the connivance of the third respondent herein and therefore, they are not liable to pay any sum as claimed by the respondent Bank. It is also contended that a criminal case has been filed against the respondent Bank and another and therefore, during the pendency of those criminal proceedings, the initiation of the proceedings before the Debt Recovery Tribunal cannot be permitted to go on.

4. The relief sought for in this Writ Petition is to quash O.A.No.13 of 2018 filed before the Debt Recovery Tribunal, Madurai. There is no dispute to the fact that the first respondent Bank has approached the jurisdictional Debt Recovery Tribunal, and filed the said O.A. Merits of the contentions raised by the petitioners before this Court, are necessarily the matter to be considered and decided only by the Debt Recovery Tribunal and therefore without filing any counter to the application pending before the Debt Recovery Tribunal, the petitioners are not justified in approaching this Court and filing the present writ petition.

5. Needless to state that all the contentions raised in this Writ Petition can be raised before the Debt Recovery Tribunal, by way of filing appropriate counter and that the Debt Recovery Tribunal would consider those contentions and pass appropriate orders on merits and in accordance with law after hearing both parties. Hence, when such a course of action is available to the writ petitioners, they are not justified in filing the present writ petition, that too, for seeking to quash the very O.A. filed before



the Debt Recovery Tribunal, Madurai. Therefore, without expressing any merits on the claim made by the petitioners, this Writ Petition is disposed of by granting liberty to the petitioners to approach the Debt Recovery Tribunal, where they are arrayed as respondents and file their counter and agitate the mater therein accordingly. No costs. Consequently, connected W.M.P.(MD) No.13430 of 2019 is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

To

- 1) The Authorised Signatory,
Bank of India, Vadipatti Branch,
Omsakthi Building Main road,
Vadipatti - 625 218, Madurai District.
- 2) The Registrar,
The Debt Recovery Tribunal,
Meenakshi Towers,
Uthankudi Ring Road,
Madurai.

+1 CC to Mr.M.A.ABDUL MUTHALIF, Advocate SR-78558.

Order made in
W.P. (MD) No.16832 of 2019

Dated:
30.07.2019

CS(16.08.2019) 3P 4C