



WEB COPY

W.P(MD)No.19660 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **16.09.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.19660 of 2019

C.Prithviraj

.. Petitioner

Vs.

Union of India,
Rep.by the Secretary to Government,
Ministry of Finance,
Department of Economic Affairs,
(Banking Division) North Block,
New Delhi.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, to declare that the provision of Rule 3 (a) of the Debts Recovery Tribunals (Refund of Court Fee) Rules, 2013 as arbitrary, unconstitutional, opposed to public policy, null and void and the same being ultra vires the constitution of India and consequently direct the respondent to enact a comprehensive Definition Clause for the word "Act" encompassing the RDDBFI Act and SARFAESI Act in the aforesaid Rules.

For Petitioner : Mr.S.I.Muthiah

For Respondent : Mr.M.Ashok Kumar
Central Government Standing Counsel

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.I.Muthiah, learned counsel for the petitioner, Mr.M.Ashok Kumar, learned Central Government Standing Counsel for the respondent. By consent of both parties, this writ petition is taken up for final disposal.

2. The petitioner seeks for a declaratory relief to declare the provisions of Rule 3 (a) of the Debts Recovery Tribunals (Refund of Court Fee) Rules, 2013 (in short 'the Rules') as arbitrary, unconstitutional, opposed to public policy and for further direction to the respondent to enact a comprehensive definition clause for the word 'Act' encompassing the RDDBFI Act and SARFAESI Act in the Rules.

<https://hcservices.ecourts.gov.in/hcservices/>



3. According to the learned counsel for the petitioner, Rule 3(a) of the Rules defines that 'Act' means the recovery of debts due to Banks and Financial Institutions Act, 1993 and does not encompass the SARFAESI Act as a consequence the persons, who are before the Debt Recovery Tribunal by way of an appeal under Section 80 of the SARFAESI Act were precluded from refund. The petitioner filed this writ petition seeking a declaratory relief to declare the provision of Rule 3 (a) of the Debts Recovery Tribunals (Refund of Court Fee) Rules, 2013 (in short 'the Rules') as unconstitutional. However, the petitioner is not able to point out as to which of the fundamental has been violated and as to how the respondent does not have legislative competence to enact the Rule. There is no ground, on which the enactment can be stated as being unconstitutional. Therefore, we are of the view that the prayer sought for by the petitioner cannot be granted. This being the Public Interest Litigation, no relief can be given to the petitioner to approach the appropriate forum. However, in case any borrower is aggrieved, it is always open to the borrower to approach the Debt Recovery Tribunal to have appropriate relief, which shall be considered in accordance with law.

4. In the light of the above, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

The Secretary to Government,
Ministry of Finance,
Department of Economic Affairs,
(Banking Division) North Block,
New Delhi.

+1 CC to M/s.M.ASHOK KUMAR, Advocate (SR-87043[F] dated 17/09/2019)

ORDER MADE IN
W.P (MD) No.19660 of 2019
16.09.2019

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JM/04.10.2019/2P/3C