



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

C.R.P (MD) .No.1611 of 2019

and

CM.P. (MD) No.8461 of 2019

1.M/s.RS Toughened Glass (P) Ltd.,
Rep.by its Managing Director,
K.Rajendran,
Dindigul.

2.M/s.Sri Sakthi Glass Tech Industries
Rep.by its Proprietor,
K.Rajendran,
Karur.

... Petitioners/Petitioners/Applicants

Vs.

1.The Authorised Officer,
Central Bank of India
Raja Muthiah Mandram
1st Floor, Dr.Ambedkar Road,
Madurai - 625 020

2.The Branch Manager,
Central Bank of India,
Dindigul Branch,
Dindigul.

3.The District Collector and District Magistrate,
Dindigul District,
Dindigul.

... Respondents/Respondents/Defendants

PRAYER: This petition is filed under Article 227 of the Constitution of India, against the proceedings, dated 19.08.2019 passed in I.A.No.723 of 2019 in A.I.R.No.213 of 2019, on the file of the Debts Recovery Appellate Tribunal at Chennai.



For Petitioner : Mr.P. Thirumahilmaran
For Respondent-3 : Mr.A.Muthukaruppan
Addl.Govt.Pleader

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O R D E R

(Order of this Court was made by T.S.SIVAGNANAM, J)

Heard Mr.P. Thirumahilmaran, learned counsel appearing for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader for R3.

2. This Civil Revision Petition has been filed under Article 227 of the Constitution of India, challenging the order passed by the Debts Recovery Appellate Tribunal in I.A.723 of 2019 in A.I.R.No.213 of 2019, dated 19.08.2019.

3. On perusal of the said order, we find that there is no adjudication of the petitioner's case in the said order, but it is only an order directing Notice to be served on the respondents bank in an application filed by the petitioner in I.A.No.723 of 2019, for waiver of Pre-deposit. The petitioner's apprehension is that the District Collector may direct his officers to dispose the petitioner from the dwelling house before I.A.No.723 of 2019 is heard by the Debts Recovery Appellate Tribunal and for which purpose, this Civil Revision Petition has been filed.

4. In our considered view, this Civil Revision Petition itself is not maintainable, as there is no adjudication done by the Debts Recovery Appellate Tribunal in I.A.No.723 of 2019 and Notice alone has been ordered. The fact that the I.A.No.723 of 2019 is pending before the Debts Recovery Appellate Tribunal, has been brought to the Notice of the District Collector, Dindigul District by the petitioner, by representation dated 09.09.2019, by handing over the same in the office of the District Collector in person.

5. The learned counsel appearing for the petitioner would submit that a copy of the representation has also been filed before the Tahsildar, Dindigul West Taluk. Therefore apprehending that the petitioner would be dispossessed from his dwelling house, this Civil Revision Petition has been filed.

6. In our considered view, if an application for waiver is pending, in fitness of things the District Collector / District Magistrate, Dindigul District, shall await further direction from the Debts Recovery Appellate Tribunal. We are also convinced to make such observation because, the appeal filed by the petitioner in A.I.R.No.213 of 2019, before the Debts Recovery Appellate Tribunal is against the order passed in I.A.No.776 of 2019, dated 07.05.2019



by which, the Debts Recovery Appellate Tribunal dismissed the petition for condonation of delay of 107 days in filing the main SARFAESI Application in SA. SR.No.3696 of 2019. This appeal is against the order passed by the District Collector, under Section 14 of the SARFAESI Act, dated 25.10.2018.

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7. It is the case of the petitioner that no notice was served on him from the Office of the District Collector and they were able to obtain a photostat copy of the order, dated 26.10.2018, from the office of the District Collector only on 10.12.2018. Therefore, the correctness of the order passed by the Debts Recovery Appellate Tribunal, refusing to condone the delay of 107 days in filing the appeal will be tested by the Debts Recovery Appellate Tribunal. Therefore, before 09.10.2019, the petitioner should not be thrown out of the dwelling house.

8. With these observation, the Civil Revision Petition stands disposed of by directing the District Collector, Dindigul District, to take note of the above facts and issue appropriate orders in this regard. It is made clear that, since the Civil Revision Petition is disposed of without notice to the respondents bank, we make it clear that we have not made any observation on the merits of the case and the Bank will be entitled to raise all contention in A.I.R No.213 of 2019, now pending before the Debts Recovery Appellate Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Authorised Officer,
Central Bank of India
Raja Muthiah Mandram
1st Floor, Dr.Ambedkar Road,
Madurai - 625 020

2.The Branch Manager,
Central Bank of India,
Dindigul Branch,
Dindigul.



3.The District Collector and District Magistrate,
Dindigul District,
Dindigul.

4.The officer-in-Charge,
Debts Recovery Appellate Tribunal at Chennai,
Chennai.

+1 CC to M/s.P.THIRUMAHILMARAN, Advocate (SR-87018[F] dated
17/09/2019)

+1 CC to M/s.SPL GP (SR-87472[F] dated 18/09/2019)

C.R.P (MD) .No.1611 of 2019
17.09.2019

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