



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD)No.1060 of 2018

and

C.M.P. (MD)No.4587 of 2018

K.Nallusamy

... Petitioner/Petitioner/Applicant
Vs.

1.The Authorized Officer,
Tamil Nadu Mercantile Bank Ltd.,
Regional Officer, 30, Besant Road,
Chinnachokkikulam,
Madurai-625 002.

2.The Branch Manager,
Tamil Nadu Mercantile Bank Ltd.,
Odaipati Branch,
11-1-18, Main Road,
Melapatti, Odaipatti,
Chinnamanur (via),
Theni District-625 540.

3.M.Ramar

..Respondents/Respondents/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 11.05.2018 passed in I.A.No.1228 of 2018 in S.A.No.247 of 2018 on the file of the Debt Recovery Tribunal, Madurai.

For Appellant : Mr.V.Meenakshisundaram

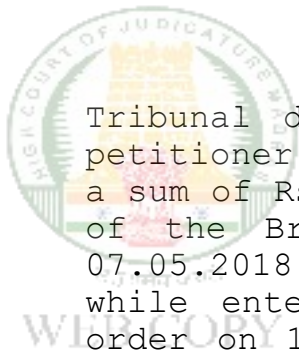
For R1 and R2 : Mr.N.Dilip Kumar

ORDER

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

This Civil Revision Petition filed under Article 227 of the Constitution of India is directed against the order, dated 11.05.2018 in I.A.No.1228 of 2018 in S.A.No.247 of 2018 on the file of the Debt Recovery Tribunal, Madurai.

2. The Interlocutory Application was filed by the petitioner, who is the borrower of a loan from the respondent bank. This Civil Revision Petition was moved on the ground that the Debt Recovery



Tribunal did not grant stay of the sale proceedings, though the petitioner filed an application along with original demand draft for a sum of Rs.5,53,000/-. The said demand draft was drawn in the name of the Branch Manager, Tamil Nadu Mercantile Bank Ltd., dated 07.05.2018 drawn on Central Bank of India, Theni Branch. The Court while entertaining the Civil Revision Petition passed an interim order on 16.05.2018, directing the petitioner to deposit a sum of Rs.5,53,000/- before this Court to the credit of this Civil Revision Petition on or before 11.06.2018. On effecting such deposit, the original demand draft, which was directed to be retained by the Registrar Judicial, was directed to be returned to the petitioner. The petitioner complied with the condition and the original demand draft has been returned. The amount of Rs.5,53,000/- is now lying in Court deposit to the credit of this Civil Revision Petition. It is the submission of the learned counsel for the petitioner that the loan availed by the petitioner has been fully settled.

3. Per contra, the learned counsel for the respondent bank submits that three loans were extended by the respondent bank. One loan for the petitioner and two loans for his mother and the property, which is the subject matter of mortgage, is to secure the loan transaction of the petitioner and one of the two loans transaction of the petitioner's mother.

4. In the light of the above, the Registry is directed to refund the sum of Rs.5,53,000/-, which is lying in Court deposit, to the petitioner, within a period of ten days from the date of receipt of a copy of this order, subject to fulfilment of necessary formalities. In the event, the amount had been deposited in an interest bearing account, then the accrued interest shall also be paid to the petitioner. On receipt of the said amount, it is well open to the petitioner to go before the Debt Recovery Tribunal and canvass all issues.

5. The learned counsel for the petitioner submitted that this Court may record the fact that the petitioner has deposited a sum of Rs.5,53,000/- to the credit of this Civil Revision Petition on 11.06.2018 and the demand draft, which was drawn in favour of the Tamil Nadu Mercantile Bank Ltd., is dated 07.05.2018. These facts not in dispute are recorded and this Civil Revision Petition is disposed of. It is made clear that both the parties can agitate all issues before the Debt Recovery Tribunal in the pending SARFEASI Appeal.

6. The learned counsel for the petitioner further prays that since this Court has protected the petitioner's possession of the dwelling house by granting an interim order of injunction, the same may be continued. The said prayer was strenuously opposed by the respondent.



the petitioner, the status quo in respect of the dwelling house as on 16.05.2018 shall be maintained.

8. It is submitted by the learned counsel for the respondent that the main SARFEASI Appeal is listed before the Debt Recovery Tribunal on 17.10.2019. Every endeavour shall be made to hear and for early disposal of the matter. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

+1 CC to M/s.G.MOHANKUMAR, Advocate (SR-86323[F] dated 12/09/2019)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-86457[F] dated 13/09/2019)

ta

ORDER MADE IN
C.R.P. (PD) (MD)No.1060 of 2018
10.09.2019

_KK/SAR/03.10.2019/3P-3C/