



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD)No.20878 of 2019

and

W.M.P. (MD)Nos.17461 and 17462 of 2019

N.Kamalasan

... Petitioner

Vs.

1.The Registrar,
Debt Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
Ethiraj Salai,
Chennai-600 008.

2.The Registrar,
Debt Recovery Tribunal,
Madurai.

3.The Authorized Officer,
Repco Home Finance Limited,
No.24, Ram Arcade,
B-14, 2nd Floor, 11th Cross Main Road,
Thillai Nagar,
Trichy-620 018.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the entire records pertaining to the impugned proceedings of the second respondent in I.A.No.2898 of 2018 in S.A.No.589 of 2018, dated 12.02.2019 and which was confirmed by the first respondent in I.A.No.375/2019 in AIR(SA)90/2019, dated 09.08.2019 and its consequential order of 1st respondent dated 06.09.2019 and quash the same.

For Petitioner : Mr.M.Pitchaimuthu

For Respondents : Mr.B.Rajesh Saravanan

ORDER

(Order of the Court was delivered by **T.S.SIVAGNANAM,J.**)

Heard Mr.M.Pitchaimuthu, learned Counsel for the petitioner and Mr.B.Rajesh Saravanan, learned Counsel accepting notice on behalf of the third respondent bank.



2. The petitioner aggrieved by the order dated 09.08.2019 passed by the Debt Recovery Appellate Tribunal, Chennai, in I.A.No.375/2019 in AIR(SA).90/2019, has filed the present writ petition. By the said order, the Debt Recovery Appellate Tribunal dismissed the stay petition filed by the petitioner on account of non-compliance of the interim direction issued by the Debt Recovery Appellate Tribunal. In fact, the appeal which was filed before the Debt Recovery Appellate Tribunal was against the order passed by the Debt Recovery Tribunal, whereby, the Debt Recovery Tribunal dismissed the stay petition filed by the petitioner in the SARFAESI Appeal on the ground that the conditional order has not been complied with. Thus, it is evidently clear that the petitioner is a defaulter not only of the loan availed from the third respondent bank, but also defaulter in not complying with the conditions imposed by the Debt Recovery Tribunal/Debt Recovery Appellate Tribunal.

3. In the light of the same, we cannot interfere with the order passed by the Debt Recovery Appellate Tribunal as there is no error in the impugned order and accordingly, this writ petition fails and the same is liable to be dismissed.

4. The learned Counsel for the petitioner submitted that the petitioner is ready and willing to pay a sum of Rs.4,00,000/- (Rupees Four Lakhs only) to the third respondent bank and he has identified a buyer for the house property where he is residing and he will take the buyer to the third respondent and within six months, the petitioner would be able to mobilise the funds and clear the entire outstanding amount.

5. Unfortunately, considering the conduct of the petitioner before the Debt Recovery Tribunal and Debt Recovery Appellate Tribunal, we cannot issue any positive direction by taking note of the submissions of the learned Counsel for the petitioner, however, we do not wish to foreclose the right of the petitioner and hence, we give liberty to the petitioner to approach the third respondent bank with a reasonable offer and it is upto the third respondent bank either to accept or reject the same.

6. With the above observations, this writ petition is dismissed. No costs. Consequently, the connected writ miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar



To

1.The Registrar,
Debt Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
Ethiraj Salai, Chennai-600 008.

WEB COPY

2.The Registrar,
Debt Recovery Tribunal,
Madurai.

+1 CC to M/s.B.RAJESH SARAIVANAN, Advocate (SR-90355[F] dated
30/09/2019)

W.P. (MD)No.20878 of 2019

and

W.M.P. (MD)Nos.17461 and 17462 of 2019

27.09.2019

JM/15.10.2019/3P/4C