



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P.[MD]Nos.22057, 22060 & 22061 of 2019

and

W.M.P.[MD]Nos.18828, 18831 and 18832 of 2019

WEB COPY

R.Kumaresan	: Petitioner in W.P.[MD]No.22057/19
Kathiresan	: Petitioner in W.P.[MD]No.22060/19
Karunakaran	: Petitioner in W.P.[MD]No.22061/19

Vs.

- 1.The Assistant Registrar,
Hon'ble Debts Recovery Tribunal,
4/162, Madurai-Melur Road,
Kalyani Towers 3rd & 4th Floors,
Uthangudi, Madurai - 625 107.
 - 2.The Superintendent of Police,
Central Bureau of Investigation (CBI),
Economic Offences Wing,
'A' Wing, Third Floor,
Rajaji Bhavan,
Besant Nagar,
Chennai - 600 090.
 - 3.The Superintendent of Police,
O/o. Superintendent of Police,
Collectorate Post,
Dindigul - 624 004.
 - 4.The Inspector of Police,
District Crime Branch (DCB),
O/o. Superintendent of Police,
Collectorate Post,
Dindigul.
 - 5.The Senior Manager,
Allahabad Bank,
Dindigul Branch,
Dindigul.
- : Respondents in all Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for a Writs of Certiorari, calling for the records of the impugned summons in O.A.Nos.505, 510 and 505



of 2019, respectively issued by the first respondent dated 20.09.2019 and quash the proceedings of the impugned summons in O.A.Nos.505, 510 and 505 of 2019, respectively issued by the first respondent dated 20.09.2019.

For Petitioner : Mr.L.Prabhu
For Respondents 1,3&4 : Mr.M.Murugan
Government Advocate
For Respondent No.5 : Mr.C.Jawahar Ravindran
[In all Writ Petitions]

COMMON ORDER

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

By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2.Heard Mr.L.Prabhu, learned Counsel appearing for the petitioner, Mr.M.Murugan, learned Government Advocate appearing for the respondents 2, 3 & 4 and Mr.C.Jawahar, learned Counsel appearing for the fifth respondent.

3.The petitioners seek for issuance of Writs of Certiorari to quash the notices issued by the Debt Recovery Tribunal, Madurai in O.A.Nos.505, 510 and 505 of 2019, respectively filed by the Allahabad Bank, Dindigul Branch under Section 19(4) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [hereinafter referred to as 'the Act'].

4.The cases have been listed today [18.10.2019] before the Tribunal for filing written statements. Learned Counsel for the petitioners would submit that the proceedings before the Debt Recovery Tribunal is non-est in the eye of law on account of the fact that fraud has been played by the then Senior Manager of the Allahabad Bank, Dindigul Branch. In this regard, the petitioners / de-facto complainants lodged a complaint before the District Crime Branch, Dindigul, the fourth respondent herein. The complaint is being investigated by the fourth respondent. However, the petitioners were not satisfied with the manner in which the investigation was conducted and therefore, the petitioner in W.P. [MD]No.22057 of 2019 filed CrI.O.P.[MD]No.22276 of 2018, to transfer the investigation in Crime No.27 of 2018, on the file of the fourth respondent. The petitioners relied upon an earlier order passed in CrI.O.P.[MD]No.15875 of 2018, wherein on the very same issue, the Court had issued directions. Thus, following the said order, CrI.O.P.[MD]No.22276 of 2018 was disposed of on 27.04.2019, transferring the case from the file of the fourth respondent to the Superintendent of Police, Central Bureau of Investigation, Chennai



[hereinafter referred to as 'CBI'] and the fourth respondent was directed to handover the entire files to the CBI for investigation.

5.Learned Government Advocate appearing for the fourth respondent submitted that in terms of the directions issued by the Court, entire files have been handed over on 03.06.2019 and the CBI has received the files on 04.06.2019. It appears that the CBI is in the process of investigation.

6.With these facts, learned Counsel for the petitioners would submit that the impugned notices issued by the Debt Recovery Tribunal should be quashed. Criminal proceedings are independent of the proceedings initiated under the provisions of the RDDB&FI Act or under the SARFAESI Act. However, in cases where fraud has been played, it is well open to the petitioners to raise such an issue before the Debt Recovery Tribunal.

7.Learned Counsel appearing for the fifth respondent Bank submitted that there is collusion between the employees of the Bank and the clients of the Bank and the same is also being investigated.

8.Considering these facts, we are inclined to dispose of these writ petitions by giving liberty to the petitioners to file comprehensive written statements before the Debt Recovery Tribunal. In the said written statements, liberty is granted to the petitioners to raise preliminary objections to the maintainability of the petitions and the amounts claimed therein on the ground that it is vitiated by fraud. It will not be sufficient merely to state that the Bank officials have played fraud on the petitioners, but fraud has to be pleaded and proved by the petitioners before the Tribunal. Therefore, we grant liberty to the petitioners to place all materials before the Tribunal which shall be considered by the Tribunal in accordance with law. Since the case has been posted before the Tribunal today, we grant liberty to appear before the Tribunal and seek for an adjournment and reasonable time may be granted to the petitioners to file appropriate pleadings.

9.With the above directions, the Writ Petitions stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



To

- 1.The Assistant Registrar,
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4/162, Madurai-Melur Road,
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- 4.The Inspector of Police,
District Crime Branch (DCB),
O/o. Superintendent of Police,
Collectorate Post,
Dindigul.

+3 CC to Mr.L.PRABHU, Advocate SR-92850, 92851, 92852
+1 CC to SPL GP (SR-93218[F] dated 21/10/2019)
+2 CC to Mr.C.JAWAHAR RAVINDRAN, Advocate SR-93626, 93627

Common Order made in
W.P.[MD]Nos.22057, 22060
& 22061 of 2019
Dated: **18.10.2019**

MR

_MK (11.11.2019) 4P 11C