BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**
and
THE HONOURABLE **MRS.JUSTICE R.THARANI**

Writ Petition (MD).No.25064 of 2019
and
W.M.P(MD).No.21661 of 2019

Thilsath Begum ... Petitioner

Vs.

1.The Authorized Officer,
Indian Overseas Bank, Mathurapuri Branch,
No.2/108A, EXT ABM Illam,
Mathurapuri, Trichy.

2.The Chief Manager,
Indian Overseas Bank,
Retail Banking/Housing Loan/Education Loan,
No.763, Anna Salai, Chennai-600 002.

3.The Registrar,
Debts Recovery Tribunal, Madurai. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned conditional order passed by the third respondent in I.A.No.2103 of 2019 in S.A.No.520 of 2019 dated 24.10.2019 and quash the same.

For Petitioner : Mr.K.Govindarajan
For Respondents : Mr.R.Pandivel

O R D E R

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

Heard Mr.K.Govindarajan, learned counsel appearing for the petitioner and Mr.R.Pandivel, learned counsel for the respondents.

2.The writ petition has been filed challenging the interim order passed by the Debts Recovery Tribunal, Madurai in I.A.No.2103 of 2019 in S.A.No.520 of 2019, dated 24.10.2019. The writ petition challenging the impugned order is not maintainable for more than one reason. Firstly, if the petitioner is aggrieved by the order, she can file an appeal before the Debts Recovery Appellate Tribunal. Secondly, if according to the petitioner any order is causing prejudice to the writ petitioner or if she wants further time, the petitioner should approach the Debts Recovery Tribunal for modification. Therefore, we are fully justified in dismissing this writ petition in *limine*.

3.The learned counsel for the petitioner submitted that the borrower is the petitioner's husband Late.Thiru.Akbar and as per the terms and conditions of the insurance policy availed, the husband is entitled to payment of a large sum of money towards the insurance claim and if the same is adjusted, then the loan can be fully settled. However, based on these submissions, we cannot modify the order passed by the Debts Recovery Tribunal and if what the petitioner says is correct, substantial amount will be paid on account of insurance availed by the petitioner's husband and the petitioner can seek for modification of the order by filing an application before the Debts Recovery Tribunal. Accordingly, we dispose of this writ petition by granting liberty to the petitioner for filing of an Interlocutory Application seeking modification of the order, dated 24.10.2019 in I.A.No.2103 of 2019 in S.A.No.520 of 2019. If such an application is filed, the Debts Recovery Tribunal shall consider the said petition and take a decision on merits.

4.Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

+1 CC to M/s.R. PANDIVEL, Advocate (SR-101311[F] 26/11/2019)

+1 CC to M/s.K. GOVINDARAJAN, Advocate (SR-101736[F] 27/11/2019)

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