

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-03-2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.3166 OF 2020

V.S.Lalitha

Petitioner

-vs-

1.N.Muthu

2.Syndicate Bank,
Mylapore Branch,
rep.by its Branch Manager,
No.15/38, SIC Building,
1st Floor, Chennai-02.

3.The Registrar,
Debts Recovery Tribunal-II,
Chennai.

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order, dated 17.01.2020, passed in Appeal No.10 of 2019 on the file of the third respondent and quash the same.

For Petitioner : Mr.Ilayaraja
for M/s.Ramalingam and Associates

For Respondent 1 : Mr.V.S.Sivasundaram

For Respondent 2 : Mrs.Shubharanjani Ananth

ORDER
(By M.M.Sundresh, J.)

Petitioner has borrowed money along with her husband from the second respondent Bank. For non-payment, recovery proceedings were initiated against them by the Bank.

2. First respondent is the successful bidder in the auction sale. However, he sought for time to pay the sale consideration, which was declined by the Recovery Officer, against which, he filed an appeal vide Appeal No.10 of 2019 on the file of Debts Recovery Tribunal-II, Chennai, which was allowed. The application filed by the petitioner to implead herself as a party respondent before the Debts Recovery Tribunal in the said appeal was rejected.

3. Thereafter, the petitioner has come forward to file this Writ Petition, challenging the order, dated 17.01.2020, passed in Appeal No.10 of 2019 by the learned Tribunal, bypassing the statutory appeal remedy, on the premise that the Chairperson of the Debts Recovery Appellate Tribunal, Chennai, is not available.

4. Be that as it may, the sale consideration has been paid by the first respondent during the pendency of the proceedings and in pursuance of the interim order passed by the learned Tribunal.

5. Therefore, we are of the view that the only remedy available to the petitioner is to file an appeal before the Debts Recovery Appellate Tribunal, Chennai, which is now functioning.

6. In such view of the matter, without going into the merits of the case, we dispose of this Writ Petition, giving liberty to the petitioner to invoke the statutory appeal remedy within a period of two weeks from the date of receipt of a copy of this order, if she is so advised.

7. Taking into account the fact that the interim order granted by this Court in favour of the petitioner is in force till-date, the same is directed to be maintained by the parties until the alternative remedy, as stated supra, is availed by the petitioner. We make it clear, that, if the appeal is filed within the time as stipulated above, the Debts Recovery Appellate Tribunal is expected to decide the same on its own merit without rejecting it on the ground of limitation, as Section 14 of the Limitation Act, 1963, can certainly be applied to the case on hand.

8. No costs. Consequently, the connected
W.M.P.No.3674 of 2020 is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

dixit

To

The Registrar,
Debts Recovery Tribunal-II,
Chennai.

+1cc to Mr.Mrs.Shubharanjani Ananth, Advocate SR.No.21768

+1cc to Mr.V.S.Sivasundaram, Advocate SR.No.20712

+1cc to Mr.*, Advocate SR.No.

+2cc to M/s.Ramalingam and Associates, Advocate SR.No.21119

W.P.No.3166 OF 2020

KS (CO)
GMY (20/03/2020)

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