

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.11170 of 2020
and
W.P.M.P.No.13616 of 2020

G.Dakshinamoorthy .. Petitioner

Vs

1.State Bank of India (ADB),
58, Division Road, Polur,
Thiruvannamalai District - 606 803.

2.Kathirvel Vengadesan ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st Respondent not to dispossess the petitioner from the auctioned agricultural lands pending disposal of the Appeal Sr No.3725 of 2020 on the file of the Debts Recovery Tribunal - II, Chennai against the order dated 7th day of July, 2020 in M.A. No.57 of 2020 passed by the Hon'ble Recovery Officer in DRC No.455 of 2018 in the Debts Recovery Tribunal - II at Chennai in O.A. No.351 of 2013 on the file of DRT - III, Chennai.

For Petitioner.. Mr.S.T.Bharath Gowtham

For Respondents.. Dr.T.Ramasamy for R1

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This writ petition has been filed by the petitioner seeking a writ of mandamus to the 1st respondent not to dispossess him pending disposal of the appeal in SR No.3725 of 2020 on the file of the Debts Recovery Tribunal-II, Chennai.

2. Under the provisions of The Recovery of Debts and Bankruptcy Act, 1993, an appeal would lie to the jurisdictional Debts Recovery Tribunal against the order of the Recovery Officer. The petitioner has rightly invoked the said provisions. The appeal filed by the petitioner has not been numbered and it is in SR stage, presumably on the ground that the petitioner has not complied with the condition of pre-deposit.

3. Though the learned counsel for the petitioner tried to argued on merit, we are not inclined to entertain this writ petition. The petitioner has already approached the Debts Recovery Tribunal, invoking the Section 30 of the Act. The prayer as sought for cannot be granted because the appeal is yet to be numbered for non compliance. The issue sought to be raised can only be agitated before the Debts Recovery Tribunal. If the petitioner does not comply with the conditional order, then, the appeal cannot be numbered. It is one thing to state that the pre-condition for getting the appeal numbered is onerous, in which case, the remedy for the petitioner may lie elsewhere. In any case, the prayer sought for against the 1st respondent not to dispossess him till the disposal of the appeal SR No.3725 of 2020 is totally misconceived. We are dealing with a case where the appeal is yet to be numbered. Thus, looking from any perspective, we do not find any merit in this writ petition. Thus, the writ petition stands disposed of giving liberty to the petitioner to work out his remedy in the pending appeal. If the petitioner complies with the condition of deposit required to be made, we expect the Debts Recovery Tribunal, to number the appeal and take up the same for hearing. At the time of hearing, the stay application, pending if any, will have to be considered. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

raa / kmk

To

1.The Debts Recovery Tribunal II, Chennai.

2. State Bank of India (ADB),
58, Division Road, Polur,
Thiruvannamalai District - 606 803.

+1cc to Mr.R.Siddharth, Advocate SR.No.28730

W.P.No.11170 of 2020

KK (CO)
GMY (22/10/2020)



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