

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.15936 of 2014
and W.M.P.No.5137 of 2018

N.R.Panditaradhya

..Petitioner

Versus

1.M/s.Canara Precision Instruments,
No.25d Vrsandra Industrial Area,
Hebbagodi Post, Hosur Road,
Bangalore 562 150.

2.Smt.Lalitha J.Achar

3.K.Janardhan Achar

4.Syndicate Bank

Banashankari Branch,
40th Cross, 8th Block, Jayanagar,
Bangalore 560 082.

5.R.Ragahavendra

6.The Registrar,

Debts Recovery Appellate Tribunal,
IV Floor, Indian Bank Circle Office,
51, Ethiraj Salai, Chennai.

..Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records on the file of the 6th respondent herein in passing the order dated 9.5.2014 in M.A.No.138 of 2007 against A.O.R.No.7 of 2003 and set aside the

same and consequentially allow the M.A.No.138 of 2007 filed by the petitioner herein before the Honourable DRAT Chennai thereby confirming the auction sale deed 5.3.2003 conducted by the Honourable Recovery Officer, Honourable DRT Bangalore by accepting the bid amount of the petitioner.

For Petitioner : Mr.T.R.Sundaram
for M/s.Rank Associates
For Respondents : Mr.S.R.Raghunathan for R1 to R3
Mr.P.Srinivasulu for R4

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The appellant in M.A.No.138 of 2007 against A.O.R.No.7 of 2003 on the file of the Debts Recovery Tribunal, Bangalore, is the petitioner. The respondents 1 to 3 in the said M.A had issued a certificate of recovery and in the auction sale conducted, which pertains to one of the secured assets, the petitioner became a successful bidder. A challenge made by the debtor before the Debts Recovery Tribunal became unsuccessful and therefore, he made a challenge to the same by filing M.A.No.138 of 2007. The DRAT vide impugned order dated 09.05.2014 has dismissed the appeal and challenging the legality of the same, has filed the present Writ Petition and it was also entertained.

2. The learned counsel appearing for the petitioner would submit that a compromise has been arrived at between the petitioner and the respondents 1 to 3 and it has also been reduced into writing and it has also been filed along with a petition to receive and record the Compromise Memo in USR.No.18462 of 2020. Since the Registry advised that there is no necessity for filing separate application to Memo of Compromise, signed on 05.10.2020, the same was received by the Registry of this Court on 12.10.2020 and is placed before this Court and it can be recorded and the Writ Petition may be allowed.

3. This Court heard the submission of the learned counsel appearing for the respondents 1 to 3, as well as the learned standing counsel appearing for the 4th respondent. The 5th respondent is a formal party, as he is the auction purchaser in respect of some items of the secured assets. The respondents 2 and 3 had also appeared through Video Conference and they would state that they had fully understood the terms of the Memo of Compromise dated 05.10.2020 and they voluntarily subscribe their signature on their own volition without any duress or compulsion

and their statements are also recorded. The Memo of Compromise dated 05.10.2020 vide USR No.18462 of 2020, is taken on file and recorded.

4. In the light of the same, the Writ Petition is allowed , insofar as the secured assets purchased by the petitioner are concerned and consequently A.O.R.No.7 of 2003 on the file of the Debts Recovery Tribunal, Bangalore, pertains to the said property, is also set aside and as a result, M.A.No.138/2007 on the file of DRAT, Chennai, filed by the petitioner stands allowed. No costs. Consequently connected miscellaneous petition is closed.

*Here enclosed Memo of Compromise

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
Debts Recovery Appellate Tribunal,
IV Floor, Indian Bank Circle Office,
51, Ethiraj Salai, Chennai.

2.The Registrar,
Debts Recovery Appellate Tribunal, Bangalore.

3.The Manager,
Syndicate Bank
Banashankari Branch,

40th Cross, 8th Block, Jayanagar,
Bangalore 560 082.

+5ccs to Mr.T.R.Sundaram, Advocate, SR.No.36058, 36058

+1cc to Mr.S.R.Rajagopal, SR.NO.35908

W.P.No.15936 of 2014

SJ(CO)

KKV/22/12/2020