

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2020

CORAM

THE HON'BLE MR. JUSTICE M.M. SUNDRESH
and
THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P. No.32480 of 2019

1.M/s.Selvaraj Prabhu & Company

2.M/s.Pethanachi Stores,
No.338/A, R.G.Street,
Coimbatore - 641 001,
Represented by Partner,
G.Selvaraj Prabhu ... Petitioners

Vs.

1.Punjab National Branch,
AGM Office,
774, Oppanakara Street,
Coimbatore - 641 001.

2.The Registrar,
Debt Recovery Tribunal,
Jawan Bhavan,
2 & 3 Floor,
No.27, Travellers Bungalow Road,
Coimbatore - 641 018. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to consider the plea of the petitioner to refer the representation made in his affidavit in S.R.No.7579 of 2019 to refer the matter to Lok Adalat as contemplated in Section 20(1)(b) of the Legal Services Authorities Act and meanwhile direct the 1st respondent to forbear from proceeding and taking against the petitioner coercive action.

For Petitioners: Rev.Dr.S.N.Amarnath

For R1 : Mr.M.L.Ganesh

R2 : Tribunal

O R D E R
(Order of the Court was made by M.M. SUNDRESH, J.)

This writ petition has been filed by the petitioners seeking a writ of mandamus directing the 2nd respondent to consider their plea to refer the matter to the Lok Adalat, while directing the further proceedings initiated by the 1st respondent to be kept in abeyance.

2.The 1st petitioner borrowed a sum of Rs.17.75 Crores and the 2nd respondent borrowed a sum of Rs.1.85 Crores, totally a sum of Rs.19.60 Crores, from the 1st respondent Bank and they also executed collateral security on 30.05.2016, however, they defaulted in repayment of the amount and hence, the account was classified as "Non Performing Asset (NPA)" on 26.10.2017.

3.Thereafter, the 1st respondent proceeded under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act"). The petitioners' attempt to stall the proceedings ended in failure, since they could not comply with the conditional order. Some of the properties of the petitioners were brought up for auction. As a consequence thereon, sale certificates were also issued. At that stage, the petitioners filed an application seeking to refer the matter to Lok Adalat by invoking Section 20 of the Legal Services Authorities Act, 1987. As the said application has not been numbered and taken up for hearing, the present writ petition has been filed.

4.Learned counsel appearing for the petitioners submitted that Section 20 of the Legal Services Authorities Act, 1987, has got application to the disputes before Debt Recovery Tribunal also. The petitioners are desirous of settling the amount. Notwithstanding the sale effected earlier, the 1st respondent is not coming forth to amicably settle the matter. There is likelihood of the petitioners losing the remaining properties on sale at a throw away price. Therefore, the matter may be directed to be referred to the Lok Adalat, as the petitioners are even unable to comply with the conditional order.

5.Learned counsel appearing for the 1st respondent submitted that the writ petition is not maintainable. The petitioners wanted to thwart the further proceedings by invoking the writ jurisdiction of this Court. The Legal Services Authorities Act, 1987, does not have any connection with respect to Debt Recovery Tribunal. Now, the arrears is mounting. The 1st petitioner is liable to pay Rs.22,02,13,696.62 and the 2nd petitioner is liable to pay Rs.2,32,19,796.87 as on 31.07.2019. Now, these amounts have become much more with the added interest payable by the

petitioners. Therefore, no indulgence can be shown, especially when the petitioners are also before the Debt Recovery Tribunal.

6. We do not wish to speak on the merits of the case. From the records, we find that the Debt Recovery Tribunal has not even numbered the application. When an application is filed, whether it is maintainable or not, the same is required to be numbered and thereafter, the question of facts and law, including maintainability, may be looked into. In such view of the matter, the 2nd respondent is directed to number the application of the petitioner, which is at SR stage, in which, the petitioner has requested to refer the matter to the Lok Adalat and thereafter, decide the same on facts and in accordance with law. We also make it clear that the question of maintainability of the application for referring the dispute pending before the Debt Recovery Tribunal to the Lok Adalat is left open.

7. Accordingly, the 2nd respondent is directed to number the application, if it is otherwise in order, within two weeks from the date of receipt of a copy of this order and decide the same on facts and in accordance with law, within six weeks thereafter. It is needless to state that our order will not stand in the way of the 1st respondent from proceeding further in accordance with law in the absence of appropriate orders from the Debt Recovery Tribunal.

With the above directions, the writ petition is disposed of.
No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Punjab National Bank,
AGM Office,
774, Oppanakara Street, Coimbatore - 641 001.

2. The Registrar,
Debt Recovery Tribunal,
Jawan Bhavan,
2 & 3 Floor,
No.27, Travellers Bungalow Road, Coimbatore - 641 018.

+lcc to Mr.M.L.Ganesh , Advocate SR.No. 18815

+lcc to Dr.S.N.Amarnath , Advocate SR.No. 18523(09/03/2020)

W.P. No.32480 of 2019

A.SK(04/03/2020)