BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.12.2020
CORAM:
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI
C.R.P (MD)No.651 of 2020
and
C.M.P(MD)No.4241 of 2020

K.Pandaram .... Petitioner

Vs

Tamil Nadu Mercantile Bank Limited,
Shenkottai Branch,
Tirunelveli District,
represented by its Bank Manager. .... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the Civil Revision Petition by setting aside the order passed in I.A.No.2633 of 2019 in O.A.No.147 of 2019, dated 28.12.2019, on the file of the Debt Recovery Tribunal, Madurai.

For Petitioner : Mr.E.Omprakash,
Senior Counsel for
Mr.N.Ganagasapapathy

For Respondents : Mr.ARL.Ramesh

ORDER

[Order of the Court was made by **N.KIRUBAKARAN, J.**]

The petitioner has challenged the order, dated 28.12.2019 passed in I.A.No.2633 of 2019 in O.A.No.147 of 2019, on the file of the Debts Recovery Tribunal, Madurai.

2.The petitioner was a guarantor of a borrower before the respondent Bank. Since the borrower has failed to repay the money, the respondent Bank filed an application in O.A.No.147 of 2019, before the Debts Recovery Tribunal, Madurai and an I.A.No.2633 of 2019 was also taken out by the respondent Bank and it was allowed by the impugned order.

3.Heard Mr.OM.Prakash, learned Senior Counsel for Mr.N.Gnanasapapathy, learned Counsel appearing for the petitioner and Mr.ARL.Ramesh, learned Counsel appearing for the respondent.

4.It is the case of the petitioner that without even issuing notice to him, the interlocutory application in I.A.No.2633 of 2019 in O.A.No.147 of 2019 on the file of the Debts Recovery Tribunal, Madurai was allowed on 28.12.2019 and thereby restraining the petitioner from selling or alienating his property, which was not all mortgaged with the Bank. Therefore, the petitioner is before this Court.

5.Though the learned Counsel for the respondent Bank would submit that the notice was served on the petitioner and he remained ex-parte, it is the fact that the impuged order has been passed, in the absence of the petitioner. Therefore, the petitioner should be given an opportunity to establish his case that the property is not mortagaged with the Bank, for the purpose of availing loan by the borrower.

6.The interest of justice requires that an opportunity should be given to the petitioner before passing any order against him. Therefore, the matter is remanded to the Debts Recovery Tribunal, Madurai for passing orders afresh, after hearing all the parties and for disposing of the main O.A itself within a period of three months from the date of receipt of a copy of this order.

7. In the result, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Dsk

To

The Debts Recovery Tribunal,
Madurai.

+1 CC to Mr.N.GANASAPAPATHY, Advocate (SR-25085[F] dated 11/12/2020)
+1 CC to Mr.A.R.L.RAMESH, Advocate (SR-25207[F] dated 11/12/2020)

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