

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 29.01.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
WP.No.1684/2021 & WMP.No.1885/2021

[Video Conferencing]

Mr.Charles D.Miller

.. Petitioner

Versus

1.The Presiding Officer
Debts Recovery Tribunal-III,
Chennai, 5th Floor, Dewa Towers
No.770-A, Anna Salai
Chennai 600 002.

2.The Authorised Officer
Tamilnad Mercantile Bank Ltd.,
Naravarikuppam Branch
New No.168, 1st Floor GNT Road
Red Hills, Chennai 600 052.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to number and list the case for adjudication in SA.Diary No.214 of 2020 on its file without any further delay.

For Petitioner : Mr.D.Murugan
For R2 : Mr.V.Chandrasekaran
Standing counsel

ORDER

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

(1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2)Mr.V.Chandrasekaran, learned Standing counsel accepts notice on behalf of the 2nd respondent.

(3)The primordial grievance expressed by the learned counsel for the petitioner is that challenging the Sale Notices dated 04.02.2020 and 13.02.2020 respectively, issued by the 2nd respondent-Bank, SA.SR.No.214/2020 has been filed on the file of the Debts Recovery Tribunal-III, Chennai / 1st respondent

herein and initially, the papers were returned and were represented after compliance of the defects and despite that, the appeal is not numbered and consequently, the prayer for interim relief is not considered and taking advantage of the same, the 2nd respondent-Bank has issued the Sale Notice dated 17.12.2020 u/s.13[4] of the SARFAESI Act and prays for appropriate orders.

(4) Per contra, Mr.V.Chandrasekaran, learned Standing counsel appearing for the 2nd respondent-Bank would submit that the petitioner, under the garb of making a request for numbering the SARFAESI Appeal in SA.SR.No.214/2020, cannot venture into the merits of the matter and in the light of the effective alternative remedy available, as done by the petitioner on an earlier occasion in respect of the earlier sale notices dated 04.02.2020 and 13.02.2020 respectively, the present writ petition is per se not maintainable and prays for dismissal of the same.

(5) This Court has considered the rival submissions and also perused the materials placed before it.

(6) This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in SA. Diary No.214/2020 filed before the 1st respondent herein or in this writ petition, directs the Registry of the Debts Recovery Tribunal at Chennai, to number the SARFAESI Appeal in SA.Diary No.214/2020, if the papers are otherwise in order and the jurisdictional Debts Recovery Tribunal, is requested to take up the prayer / petition for interim relief at the first instance and give a disposal within a period of two weeks from the date of receipt of a copy of this order/uploading of the order in the website and communicate the decision taken, to the petitioner. If the petitioner is so advised, he is at liberty to work out his further remedies in respect of the Sale Notice dated 17.12.2020 issued by the 2nd respondent-Bank.

(7) The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

ap

To

1.The Presiding Officer
Debts Recovery Tribunal-III,
Chennai, 5th Floor, Dewa Towers
No.770-A, Anna Salai
Chennai 600 002.

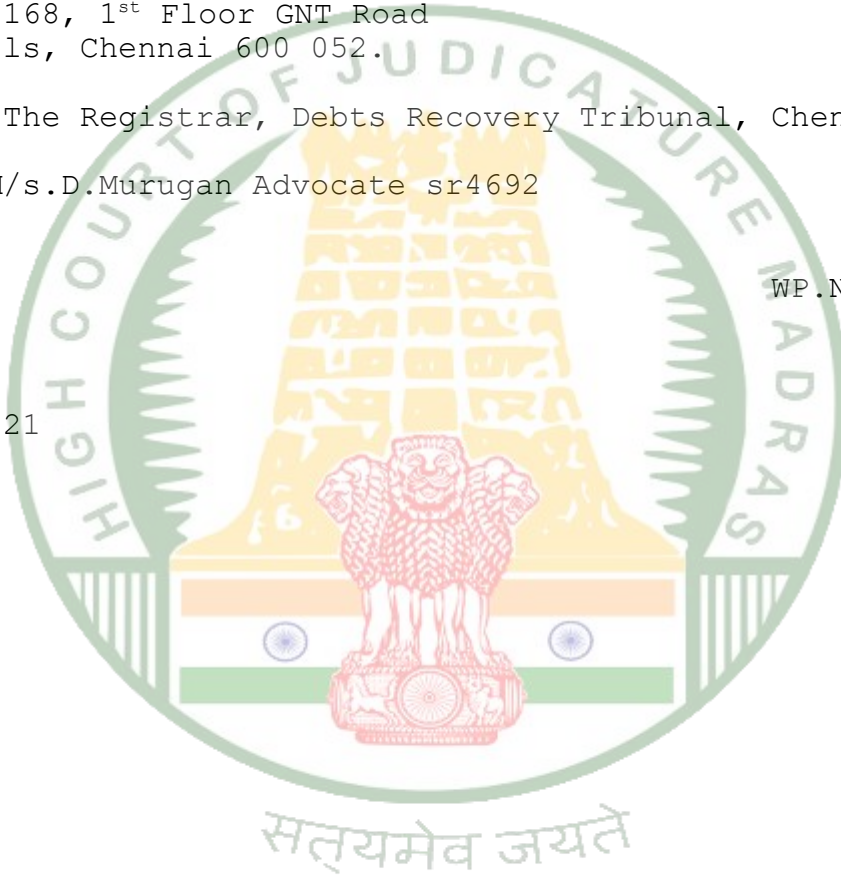
2.The Authorised Officer
Tamilnad Mercantile Bank Ltd.,
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New No.168, 1st Floor GNT Road
Red Hills, Chennai 600 052.

COPY TO:- The Registrar, Debts Recovery Tribunal, Chennai.

+1 cc to M/s.D.Murugan Advocate sr4692

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