

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.13612 of 2021

M/s.Kotak Mahindra Bank Ltd
Registered office at 27 BKC C 27 G Block
Bandra Kurla Complex Bandra (E)
Mumbai 400 051
Branch office at
Retail Asset Reconstruction Division Chennai,
Dass India Tower, II Floor, No.3, II Line Beach,
Parrys Chennai 600 001

also at

No.185, 2nd Floor, Annasalai,
Chennai 600 006

represented by its Authorized Officer,
K.Velmurugan

.... Petitioner

Vs

The Recovery Officer

Debts Recovery Tribunal III Chennai

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the directing the Respondent to expeditiously dispose of the affidavit / petition filed by the petitioner to release the sale consideration of the secured asset to the petitioner as per the joint affidavit filed towards recovering its outstanding dues.

For Petitioner : Mr.V.Balasubramani

ORDER

(Made by the Hon'ble Chief Justice)

The petitioner claims to be a secured creditor and complains that the securities obtained by the petitioner are involved in recovery proceedings before the Recovery Officer of the Debts Recovery Tribunal in a claim by some other bank and, despite the petitioner's application to the Recovery Officer to release the

securities enjoyed by the petitioner, the application has not been disposed of or appropriate action taken thereon.

2. For a start, the relevant bank, ICICI Bank Ltd, has not been impleaded herein. It is impermissible to go into the merits of the petitioner's claim in the absence of ICICI Bank Ltd. At any rate, the petitioner's grievance pertains to an order dated March 18, 2021 passed by the relevant Recovery Officer on an application made by the petitioner before such officer. By such order, the Recovery Officer has granted three months' time to the petitioner herein "to obtain appropriate orders from a Competent Authority to lay its claim" on the sale proceeds or balance sale proceeds held by such Recovery Officer. The application made by the petitioner has been kept pending by the relevant Recovery Officer.

3. It is open to the petitioner to take appropriate steps in accordance with law, notwithstanding what the Recovery Officer may have observed. After all, the observation of the Recovery Officer cannot override the law of the land. At any rate, Section 30 of the Recovery of Debts and Bankruptcy Act, 1993, provides for an appeal from an order passed by the Recovery Officer.

4. The petitioner says that the petitioner's claim is founded on an arbitral award and the petitioner has submitted a copy of the arbitral award with the relevant Recovery Officer. In respect of an arbitral award, Section 36 of the Arbitration and Conciliation Act, 1996 clearly provides the manner of implementation thereof.

5. Accordingly, no order is required to be made on the present petition since there are alternative remedies available to the petitioner in accordance with law.

6. W.P.No.13612 of 2021 is disposed of without any order as to costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To:

1 The Recovery Officer
Debts Recovery Tribunal III Chennai

W.P.No.13612 of 2021

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