



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.14367 OF 2021

R.V.Srinivas

... Petitioner

.Vs.

1. The Bank of Baroda,
Madras Main Branch,
No.28, Rajaji Salai,
Chennai - 600 001.
2. The Recovery officer,
Debts Recovery Tribunal No. II,
4th Floor, Spencer Plaza Towers,
No.770, Anna Salai,
Chennai - 600 002.
3. The Sub Registrar,
Anna Nagar Sub Registrar Office ,
Mogappair West, Chennai,
Opp. Maduravoyal Taluk Office.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of attachment dated 03.03.2015 passed in DRC No.154 of 2002 in OA No.336 of 2001 on the file of the 2nd respondent attaching "B" schedule mentioned property and quash the same and consequentially direct the 3rd respondent to reverse the entry of attachment in the encumbrance certificate of the "B" schedule mentioned property.

For Petitioner : Mr.Prakash Goklaney

For Respondents : Mr.P.V.Ramachandran
For first respondent

Mr.P.Muthukumar
Counsel for State
For third respondent
R2 Tribunal



ORDER

(Made by the Hon'ble Chief Justice)

WEB COPY This is an utterly frivolous writ petition filed with the obvious ill-motive of dodging the obligation to repay a nationalised bank after having obtained credit facilities therefrom.

2. The petitioner claims that the recovery proceedings in which the order impugned has been passed are without jurisdiction since the certificate was issued on September 23, 2002 and the order of attachment assailed here is dated March 3, 2015. Though the petitioner refers to the extraordinary jurisdiction under Article 226 of the Constitution being permitted to be invoked if the order complained of is without jurisdiction, there is no explanation as to why the petitioner waited six years before complaining of the order. It is true that there is no limitation when it comes to receiving a petition under Article 226 of the Constitution, since such provision is used primarily to protect fundamental rights, but the discretion which is at large with the Writ Court cannot be exercised for a laggard or someone who sleeps over his rights or makes no attempt to challenge an order or action within reasonable time.

3. In any event, the order of attachment was capable of being carried by way of an appeal under Section 30 of the then Recovery of Debts due to Banks and Financial Institutions Act, 1993. There is no law which says that an order without jurisdiction cannot be challenged by way of a regular appeal and that only a petition under Article 226 of the Constitution may be carried thereagainst.

4. For the inordinate delay on the part of the petitioner in invoking this extraordinary jurisdiction and the petitioner not pursuing the right of appeal that was available to the petitioner in respect of the order sought to be challenged herein, W.P.No.14367 of 2021 is dismissed with costs. Consequently, W.M.P.No.15273 of 2021 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kpl



To

1. The Bank of Baroda,
Madras Main Branch,
No. 28 Rajaji Salai,
Chennai - 600 001.
2. The Recovery officer,
Debts Recovery Tribunal No. II,
4th Floor, Spencer Plaza Towers,
No. 770, Anna Salai,
Chennai - 600 002.
3. The Sub Registrar,
Anna Nagar Sub registrar office Mogappair,
West Chennai,
Opp. Maduravoyal Taluk Office.

W.P.NO.14367 OF 2021

VSN-II (CO)
PBS/16/08/2021