



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.09.2021

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CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.NO.20462 OF 2021

P.G.Sethuram

.. Petitioner

Vs.

1. The Presiding Officer
The Debt Recovery Tribunal
2nd and 3rd Floor, Jawan's Bhavan
27, T.B.Road, Coimbatore 641 018.
2. The Registrar
The Debt Recovery Tribunal
2nd and 3rd Floor, Jawan's Bhavan
27, T.B.Road, Coimbatore 641 018.
3. The Axis Bank Ltd.
Muthur Road
Vellakoil 638 111
Kangayam Taluk, Tirupur District
Tamil Nadu.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the record pertaining to the impugned order passed by the 1st respondent in O.A.No.431/2017 dated 08.02.2021; Review Application order dated 18.06.2021 passed in 2/21; and quash the same and consequently, direct the respondent to pay a compensation of Rs.27,03,630/- as per attached typed set Annexure C for infringement of fundamental rights.



For the Petitioner : Mr.P.G.Sethuram
Party-in-Person

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ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner is candid that the petitioner has invoked the extraordinary jurisdiction under Article 226 of the Constitution since the appellate remedy available to the petitioner is not efficacious. The petitioner questions the propriety of an order dated February 8, 2021 passed by the Debts Recovery Tribunal, Coimbatore. The petitioner applied for a review of the order but the same has been dismissed by an order dated June 18, 2021. A combined challenge has been launched herein.

2. According to the petitioner, the Debts Recovery Tribunal had no jurisdiction to attach an agricultural property that is owned by the petitioner. The petitioner says that to prefer an appeal before the Debt Recovery Appellate Tribunal, Chennai, the petitioner may be called upon to make a deposit of up to 50 per cent of the amount adjudged to be due by the Debts Recovery Tribunal. The petitioner submits that when the Debts Recovery Tribunal acted without jurisdiction, the petitioner should not be required to make such a hefty deposit to assail the order.

3. There appears to be little doubt that the petitioner defaulted in repaying the loan obtained from the respondent bank. The Debts Recovery Tribunal had due authority to entertain the bank's claim under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993. The Debts Recovery Tribunal, which had jurisdiction to assess the claim, has rendered a verdict that finds the petitioner indebted to the bank in excess of Rs.11.36 lakh.

4. The Tribunal has also rejected the counter-claim carried by the petitioner before it.

5. Ordinarily, when a statutory remedy against a judicial or quasi-judicial order is provided by way of an appeal, this



court in exercise of its authority under Article 226 of the Constitution is not minded to entertain a petition challenging the original order. There are exceptions to the rule of self-restraint. However, such exceptions cover the areas of complete breach of the principles of natural justice, acting without jurisdiction and the order being completely unreasonable in the sense that no ordinary person would have passed the same on the facts apparent. The petitioner does not meet the exalted test for the court to entertain the grievance without requiring the petitioner to exhaust the statutory remedy available to him.

6. Accordingly, WP No.20462 of 2021 is dismissed without going into the merits thereof and by leaving the petitioner free to approach the Appellate Tribunal in accordance with law.

7. There will be no order as to costs. WMP Nos.21732 and 21733 of 2021 are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

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To:

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RLD(CO)

RLP(01/10/2021)