



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM :

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

WP No.23737 of 2021
and
WMP No.24994 of 2021

V.S.Lalitha

..Petitioner

Vs.

1. N.Muthu

2. Canara Bank
(Formerly Syndicate Bank)
Mylapore Branch, Rep. by its
Branch Manager, No.15/38,
SIC Building 1st Floor,
Chennai 600 002.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records in AIR No.84/2021 on the file of the Hon'ble DRAT, Chennai and quash the order dated 19.04.2021 made therein as illegal and without jurisdiction.

For the Petitioner : Mr.G.Desingu

ORDER

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

The order impugned is perfectly justified and does not warrant any interference.

2. Admittedly, the petitioner is a defaulting borrower who wants to play ducks and drakes with the adjudicatory bodies and the secured creditor.

3. The grievance of the petitioner is that a particular property was sold by way of an auction by the recovery officer of a Debts Recovery Tribunal before which the recovery proceedings were pending, but the purchaser failed to make the payment within the stipulated time. The purchaser appealed to the recovery officer for an extension of time, which was



declined since the recovery officer perceived that he had no authority in such regard.

4. An appeal was preferred by the purchaser before the Presiding Officer of the relevant Debts Recovery Tribunal. It was at this stage that this petitioner perceived to be an appropriate opportunity to delay matters and the petitioner sought to be impleaded as a party to such appeal. The petitioner preferred an appeal before the Debts Recovery Appellate Tribunal at Chennai in such regard, whereupon a conditional order was passed requiring the petitioner to make a pre-deposit that the petitioner failed to make. Subsequently, on the purchaser's appeal, the Debts Recovery Tribunal extended the time by a period of 20 days. The petitioner complains that the Debts Recovery Tribunal had no authority in such regard. However, the appeal against the relevant order of the Debts Recovery Tribunal which was carried to the DRAT was dismissed by the order impugned dated April 19, 2021. It is such terse order which has been challenged herein. The order reads as follows:

"Learned Counsel Mr.Imayavaramban representing M/s.Ramalingam & Associates for the Appellant and Mr.D.Durairaj for the Respondent No.1 are present.

Mr.A.G.D. Balakumar filed Vakalat for Respondent No.2, which is taken on record.

In view of the fact that the Appeal A.IR: 87/2020 was dismissed for want of compliance of pre-deposit, the Appeal A.IR. 84/2021 on hand, which is connected to the Appeal A.IR: is also stands dismissed. All the pending IAs also stand closed."

5. A previous appeal pertaining to the same subject-matter and arising out of the same appellate proceedings before the DRT stood dismissed for default on the petitioner's part to put in the pre-deposit. Thus, the matter attained finality, in the sense that the petitioner could no longer agitate any grievance pertaining to the matter that was pending before the appellate authority. It is irrelevant as to whether the DRT in exercise of its appellate authority, passed an order that is improper or incorrect or flawed in law. What is of paramount importance is that this defaulting borrower as petitioner is precluded from questioning the same since the petitioner herein failed to put in the deposit that was required by the DRAT for the earlier of the two appeals to be entertained by the DRAT. Once the petitioner herein voluntarily abandoned the initial appeal, the subsequent - consequential - appeal arising out of an order passed in the later stage of the appellate proceedings could no longer be questioned by the petitioner before the DRAT.



WP No.23737 of 2021 is dismissed with costs assessed at Rs.5,000/- to be paid to the Tamil Nadu State Legal Services Authority within a period of 15 days from date. WMP No.24994 of 2021 is closed.

WEB COPY

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

sra

To:

1. The Debts Recovery Appellate Tribunal
Chennai.
2. The Branch Manager,
Canara Bank, (Formerly Syndicate Bank)
Mylapore Branch,
Chennai.

Copy To

The Secretary,
The Tamilnadu State Legal Services Authority,
Chennai.

WP No.23737 of 2021

RLD(CO)
RGA(17/11/2021)