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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

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

Civil Revision Petition No.2661 of 2021
&
CMP.No.19610 of 2021

K.Muthusamy

..Petitioner/2nd Defendant

vs

1. K.Nagarajan

2. The Authorized Officer,
M/s.Tamil Nadu Mercantile
Bank, Namakkal Branch,
No.337/7, 114-1B,
K.K.P.Complex,
Salem Road,
Namakkal.

..Respondents/Applicant/1st Defendant

Prayer: Petition filed under Article 227 of The Constitution of India praying to set aside the fair and decretal orders dated 01.9.2021 made in I.A.No.1886 of 2021 in S.A.No.432 of 2021 on the file of the Debts Recovery Tribunal, Coimbatore.

For Petitioner : Mr.G.Arul Murugan

For Respondent-2 Mr.V.Chandrasekaran

ORDER

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

Mr.V.Chandrasekaran, learned counsel accepts notice for the second respondent - bank.



2. By this civil revision petition, the challenge is made to the order dated 01.9.2021 passed by the Debts Recovery Tribunal, Coimbatore (for short, the DRT).

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3. The challenge to the order has been made by the purchaser of the property in auction.

4. It is the submission of the learned counsel for the petitioner that after the auction, sale was confirmed followed by registration of the deed. Therefore, the right of the borrower gets extinguished and there is no reason for the DRT to pass the interim order on the submission of the borrower to make good the dues. The DRT, knowing it well that the sale has already been confirmed, followed by registration of the deed, passed the interim order for extraneous reasons. Hence, the learned counsel for the petitioner prays for setting aside the order dated 01.9.2021.

5. We have carefully considered the submissions of the learned counsel for the petitioner as supported by the learned counsel appearing for the second respondent - bank.

6. We find that an interim order has been passed by the DRT when the revision petitioner was not present. In view of that, an application can be filed to recall the order dated 01.9.2021. It is seen that no such application has been filed. Thus, at this stage, we are not inclined to entertain this revision petition, rather give liberty to the petitioner to file an application to recall the order dated 01.9.2021 and the subsequent orders. If such an application is moved by the petitioner, the DRT is directed to consider all the legal issues to be raised by the petitioner. It is specifically for the reason, according to the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent - bank, that not only the sale certificate has been issued in favour of the petitioner, but also the deed has been registered. Surprisingly, the consequences aforesaid were not taken into consideration by the Tribunal while passing the order despite recording the fact about the auction and the subsequent events.

7. In any case, we are giving liberty to the petitioner to approach the DRT by making an application to recall the order dated 01.9.2021 and the subsequent orders. The DRT shall consider all the issues and record its findings as per law. It is made clear that any default in compliance of the above direction by the DRT will be viewed seriously.

8. With the aforesaid, the above civil revision petition is



disposed of. Consequently, the connected CMP is closed. There will be no order as to costs.

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Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

To:

The Registrar Debts Recovery Tribunal,
Coimbatore

+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.63769

CRP.No.2661 of 2021 &
CMP.No.19610 of 2021

SSI (CO)
RGA (09/12/2021)