



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.08.2021

CORAM :

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND**

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) Nos.1113 and 5119 of 2020

and

W.M.P (MD) Nos.4466 and 7304 of 2020

W.P. (MD)No.1113 of 2020

1.Sree Narayana Textile Private Limited,
Visalakshi Nagar,
Madurai 401, represented by its
Proprietor Mr.N.Thiyagarajan

2.N.Thiyagarajan (Died)

3.T.Visalakshi

4.T.Saraswathi

5.T.Uma

6.T.Narayanan ... Petitioners
(P3 to p6 are substituted vide Court order dated 23.08.2021 in
WMP (MD).11643/2021 in WP (MD).1113/2020)

Vs.

1.The Industrial Development Bank of India,
No.115, Anna Salai,
Saidapet,
Chennai-15.

2.The Recovery Officer,
Debt Recovery Tribunal No.2,
Fourth Floor, Dewa Towers,
770-A, Anna Salai,
Chennai-2.

3.S.V.Gandhi ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari calling for the records relating to the order dated 2.1.2020 passed by the Debts Recovery Appellate Tribunal at Chennai in M.A.No.20 of 2018 in

<https://hcservices.ecourts.gov.in/hcservices/>



(Appeal 7 of 2016 in DRC.No.211 of 2007, on the file of DRT II, Chennai) and quash the same.

For Appellant : Mr.PT.S.Narendravasan

For Respondent-1 : Mr.K.R.Laxman

For Respondent-3 : Mr.S.Sethuraman

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W.P. (MD)No.5119 of 2020

1.Sree Narayana Textile Private Limited,
Visalakshi Nagar,
Madurai 401, represented by its
Proprietor Mr.N.Thiyagarajan

2.N.Thiyagarajan (Died)

3.T.Visalakshi

4.T.Saraswathi

5.T.Uma

6.T.Narayanan ... Petitioners
(P3 to p6 are substituted vide Court order dated 23.08.2021 in
WMP(MD).11642/2021 in WP(MD).5119/2020) ...
Petitioners

Vs.

1.The Industrial Development Bank of India,
No.115, Anna Salai,
Saidapet,
Chennai-15.

2.The Recovery Officer,
Debt Recovery Tribunal No.2,
Fourth Floor, Dewa Towers,
770-A, Anna Salai,
Chennai-2.

3.S.V.Gandhi ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari calling for the records relating to the order dated 15.02.2020 passed by the



Debts Recovery Appellate Tribunal-II at Chennai in Appeal No.14 of 2019 in D.R.C.No.211 of 2007 and quash the same.

For Appellant : Mr.PT.S.Narendravasan

For Respondent-1 : Mr.K.R.Laxman

For Respondent-3 : Mr.V.Karthikeyan

COMMON ORDER

[Order of the Court was made by ***The Hon'ble Chief Justice***]

The writ petitioners can be loosely called to be the borrowers, who had obtained credit facilities from the first respondent bank. Upon proceedings being instituted under the then Recovery of Debts due to Bank and Financial Institutions Act, 1993 and a certificate being obtained, certificate proceedings commenced before the Recovery Officer under the Act of 1993.

2. In course of such proceedings, the sale of an immovable property was about to be conducted. On some ruse, the borrowers carried a petition to this Court which resulted in an interim order being passed. That stayed the further sale of the relevant property. It is here that it must be stated that this Court must always be on guard against dishonest borrowers who invoke the writ jurisdiction at the drop of a hat and without any merit in their case. Unreasoned interim orders do great injustice to the system and to the banks and others concerned.

3. In this case, as a result of the interim order passed on the relevant petition, the sale could not be conducted. Quiet conveniently, the borrowers subsequently withdrew the writ petition since their purpose had been served by the interim order. During the period, that the sale could not be conducted, the sale proceeds had not been deposited by the person identified to be the highest bidder and it was next contended before the Debts Recovery Tribunal by the borrowers that the Recovery Officer had no authority to extend the time for making the payment. It was in such circumstances that the Recovery Officer's order came to be set aside by the DRT and an appeal was preferred therefrom by the successful purchaser. The Debt Recovery Appellate Tribunal noticed that both the DRT and the Recovery Officer had failed to appreciate that the borrower had misused the writ jurisdiction of this Court. In such circumstances, the DRAT set aside the order of April 12, 2016 passed by the Recovery Officer, while permitting the Recovery Officer to conduct a fresh auction and requiring the consideration received



from the auction-purchaser to be returned by the Recovery Officer to such auction-purchaser.

4. There does not appear to be any error committed by the DRAT. In particular, it must be remembered that the appellant before the DRAT has not filed the present petition. The present petition has been filed by the borrowers who only want to stall the proceedings and ensure that purchasers are scared away from the property with repeated orders of delay.

5. The DRAT has appropriately permitted a fresh auction sale. At such auction sale, the original auction-purchaser will also be entitled to participate. Such auction should be conducted within the next six weeks. There is no doubt that the highest bidder will be sold the property, subject to the reserve price being met.

6. W.P(MD) No.1113 of 2020 is disposed of. There will be no order as to costs.

7. In view of the above order passed in W.P(MD) No.1113 of 2020 against the order passed by the DRAT, no further order need be passed on the other writ petition. The matter will now be governed by the above order with the Recovery Officer being permitted to sell the property at an auction. However, the entire consideration tendered by the previous auction-purchaser has to be returned by the Recovery Officer to such auction-purchaser before the next auction is conducted. W.P.(MD) No.5119 of 2020 is disposed of. There will be no order as to costs. W.M.P(MD) Nos.4466 & 7304 of 2020 are closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RM/SSL

Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Industrial Development Bank of India,
No.115, Anna Salai,
Saidapet,
Chennai-15.

2.The Recovery Officer,
Debt Recovery Tribunal No.2,
Fourth Floor, Dewa Towers,
770-A, Anna Salai,
Chennai-2.

+1 CC to M/s.PT.S.NARENDRAVASAN, Advocate (SR-27003[F] dated
23/08/2021)

+2 CC to M/s.V.KARTHIKEYAN, Advocate (SR-27015[F] dated
23/08/2021)

W.P.(MD) Nos.1113 and 5119 of 2020

23.08.2021

MGJ(29.09.2021) 5P 6C