



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD) .Nos.9921, 9924 and 9925 of 2021

and W.M.P. (MD) Nos.7608, 7609, 7613, 7615, 7617 & 7619 of 2021

WEB COPY

1.Sri Lakshmi Modern Rice Mill,
Sole Proprietor, M.Sudalaimadan,
S/o Mayandi Nadar,
Old No.2/1, New No.2/236, Second Street,
Idaiyardhavanai, Veerakeralam Pudur Taluk,
Tirunelveli District - 627 859,
Now Tenkasi District.

2.S.Ramesh ... Petitioners in all writ petitions

Vs.

1.The Debts Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
55 Ethiraj Salai, Chennai - 600 008.

2.The Authorized Officer, Axis Bank,
Loan Centre, 4th Floor,
Arcot Plaza, Old No.38, New No.165,
Arcot Road, Kodambakkam,
Chennai - 600 024. ... Respondents in all writ petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari, calling for the records pertaining to the impugned orders, dated 31.03.2021 in AIR-15/2021, AIR (SA) 38 of 2021 and AIR (SA) 39 of 2021, dismissing the Appeal by the 1st respondent and quash the same.

For Petitioners : Mr.Sethuraman for
Mr.V.Karthikeyan

For Respondents : Mr.M.Senthil Kumar
No.2 (In all petitions)

C O M M O N O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

These three writ petitions have been filed by a borrower of loan from the second respondent bank, challenging the order passed by the Debt Recovery Appellate Tribunal.



2.We have heard Mr.Sethuraman for Mr.V.Karthikeyan, learned counsel appearing for the petitioners and Mr.M.Senthil Kumar, learned Counsel appearing for the second respondent.

3.The order impugned before the Debt Recovery Appellate Tribunal (in short herein after referred to as 'DRAT') was an order passed by the Debt Recovery Tribunal (in short herein after referred to as 'DRT'), Madurai in I.A.No.1626 of 2020 in I.A.No.1099 of 2020 in S.A.No.254 of 2020.

4.The DRT by the said order dismissed the application filed by the petitioner praying for extension of time to comply with the conditional order, dated 09.10.2020. It is not in dispute that during the pendency of the proceedings the three installments, which were directed to be paid by the DRT have been paid and the petitioner / borrower is ready to pay the 4th installment namely Rs.11,67,000/- (Rupees Eleven Lakhs and Sixty Seven Thousand only).

5.When the matter came up before the DRAT, the appeal was dismissed on the ground that the pre-deposit formalities have not been complied with.

6.In our considered view, such an order could not have been passed by the DRAT because the appeal filed before it was challenging an order passed by the DRT refusing to extend the time to pay the fourth installment. Therefore, the DRAT could have tested whether the order was right and if so, should have confirmed the order or if the DRAT was of the opinion that the order calls for interference, then it could have done so. The petitioner cannot be put to a disadvantageous position in his own appeal.

7.The learned counsel appearing for the second respondent bank has confirmed with the second respondent bank that the three installments have been remitted.

8.The learned counsel for the respondent bank submitted that the petitioner may be directed to pay further amounts.

9.This prayer can very well be made before the DRT, since the SARFAESI appeal in S.A.No.254 of 2020 is pending before the DRT.

10.Thus for the above reasons, these writ petitions are allowed and the impugned orders dated 31.03.2021 are set aside with a direction to the petitioner to pay the 4th installment of Rs.11,67,000/- on or before 18.06.2021. The said amount shall be accepted by the second respondent bank without prejudice to their rights. No costs. Consequently, connected miscellaneous petitions are closed.



11.The DRT is requested to give an early date for the disposal of S.A.No.254 of 2020, subject to the availability of time.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM/PS

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 Debts Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
55 Ethiraj Salai, Chennai - 600 008.

+1 CC to M/s.V.KARTHIKEYAN, Advocate (SR-19204[F] dated 11/06/2021)

ORDER MADE IN
W.P. (MD) .Nos.9921, 9924
and 9925 of 2021
10.06.2021

PM(CO)

TR(17.06.2021) 3P 3C