BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.08.2021
CORAM :
THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.(MD) No.11567 of 2019
and
WMP(MD)Nos.8821 and 8822 of 2019

M/s.Chitra Agencies,
Rep by its Proprietrix
Mrs.S.Chitra ... Petitioner

vs.

1)The Bank of India,
Rep. by its Branch Manager,
No.1512, Palani Road,
Oddanchatram,
Dindigul District.
2)The Chief Manager and Authorized Officer,
Bank of India,
Coimbatore Zone,
324, Oppanakara Street,
Star House, P.B No.337,
Coimbatore-0641 001. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the impugned order dated 09.04.2019 made in RA(SA)No.155 of 2012 on the file of the Hon'ble Debts Recovery Appellate Tribunal at Chennai in confirming the order of the Hon'ble Debts Recovery Tribunal, at Madurai made in S.A.No.151 of 2007 dated 24.06.2008 in relation to the impugned sale notice dated 04.07.2006 and subsequent proceedings under Reference ZO.CBE.LAW: VA: 576 issued by the 2nd respondent and consequently quash the same as illegal and devoid of merits forthwith.

For Petitioner : Mr.S.Palani Velayutham
For R1 : Mr.Pala Ramasamy
For R2 : No appearance

ORDER

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

There is no merit in this petition challenging an order dated April 9, 2019 passed by the Debt Recovery Appellate Tribunal at Chennai. The only reason for filing the petition may have been to delay the inevitable.

2.Before the Debt Recovery Appellate Tribunal, the petitioner herein had challenged an order dated June 24, 2008 by which a petition under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002, was dismissed and a sale notice issued by the secured creditor and the subsequent sale conducted by the secured creditor were affirmed.

3.It is evident that the Debt Recovery Appellate Tribunal went into the entire gamut of the matter and considered the propriety of the actions taken by the secured creditor including the issuance of the notice under Section 13(2) of the Act and the notice of symbolic possession issued under Section 13(4) of the bank. The appellate Tribunal noticed that as early as in January 2006, the bank had issued a notice for sale of the property and a reserve price of Rs.30 Lakhs was fixed therefor.

4.As is the usual flaw adopted by defaulting borrowers, the only ground that the petitioner in this case picked out was that the property had been under-valued. By referring to procured valuation reports, as is usually the practice, the petitioner sought to delay the matter. Ultimately, if sale notice was issued on July 04, 2006 indicating a reserve price of Rs.20 Lakhs and the property was sold at Rs.21 Lakhs.

5.The valuation and sale price were sought to be assailed before the appellate Tribunal, but the Tribunal repelled the challenge on cogent grounds as indicated in the order impugned.

6.At the end of the day, this Court does not sit in appeal over the judgment and order passed by the Debt Recovery Appellate Tribunal. All that this Court is required to do in exercise of its power of juridical review is to ascertain whether a fair procedure was adopted before the lower adjudicating authority and whether the petitioner herein had been afforded a reasonable opportunity of presenting the petitioner's case. In addition, what is also looked into is whether the matter has been dealt with by indicating cogent grounds.

7.The order impugned passed by Debt Recovery Appellate Tribunal checks out all the boxes and that does not appear to be any procedural irregularity. In such circumstances, the writ court will not be inclined to interfere with the assessment by the lower adjudicating authority or any discussion which may have been in exercise by such authority unless, there is manifest miscarriage of justice.

8.The plain facts here are unmissable. The petitioner obtained credit facilities, failed to repay and now seeks to question the valuation of the property that was sold in partial discharge of the petitioner's debt. Surely, it involves no rocket science or any deep understanding of law to adjudicate the matter and it is evident that the Debt Recovery Appellate Tribunal took relevant consideration into account while making the impugned assessment.

9.For the reasons aforesaid, the petition is found to be utterly devoid of merits.

10.W.P(MD)No.11567 of 2019 is dismissed with costs. WMP(MD) Nos.8821 and 8822 of 2019 are closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar(CS)

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To

1.The Debts Recovery Appellate Tribunal at Chennai.
2.The Debts Recovery Tribunal, Madurai.

ORDER MADE IN
W.P(MD)No.11567 of 2019
DATED : 24.08.2021

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