



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2021

CORAM :

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**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAI SWAMY**

**W.P. (MD) No. 16642 of 2018
and
W.M.P. (MD) .No.14728 of 2018**

Gopalakrishnan

.. Petitioner

Vs

1. The Registrar,
The Debts Recovery Tribunal,
Madurai.

2. The Central Bank of India,
Rep. through Chief Manager,
Nagercoil,
Kanyakumari District.
Regional Office, Madurai.

3. Ajithkumar

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the Appeal No.05 of 2017, on the file of the Debt Recovery Tribunal, Madurai as well as the consequential interim order in I.A.No.2468 of 2017, dated 12.01.2018 and to quash the same and consequently direct the second respondent to release the title deed of the petitioner pertaining to the property in S.No.190/3, S.No.190/4B, S.No.190/4C, S.No.190/4D, S.No.190/7 and S.No.190/8 of Painkulam Village, Vilavancode Taluk, Kanyakumari District, within a time frame that may be fixed by this Court.

For Petitioner : Mr. K. Gokul

For Respondents : Mr. R. Pandivel
for R2
Mr. J. Shabu Jose
for R3



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ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

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The writ petition is directed against an order dated January 12, 2018 passed in an appeal by the Debts Recovery Tribunal, Madurai.

2. It appears that the appeal was instituted against an order passed by the Recovery Officer of the Tribunal. Recovery Officers ordinarily assume jurisdiction in certificate proceedings which are akin to execution.

3. The grievance of the writ petitioner is that the disputes between the parties have apparently been settled in mediation; but, contrary to the agreed order passed in the mediation proceedings, the bank has purported to proceed in the matter. The writ petitioner says that the Recovery Officer took notice of the petitioner's assertion that the disputes had been resolved by mediation, but an appeal has been carried against the order on which the impugned interim order has been passed.

4. Apart from the fact that this is not the appropriate forum to entertain an appeal from an interim order, as to whether or not there has been a settlement is a question of fact and it is for the petitioner to convince the relevant forum that there has been, indeed, a mediation which culminated in a consent order which has been duly signed and approved.

5. Such aspects cannot be gone into in the extraordinary jurisdiction under Article 226 of the Constitution where matters are decided in a summary manner and without calling for any oral evidence.

6. It is submitted by some of the appearing respondents that a further interim order has been passed in the relevant appeal.

7. Since the appeal against which the interim order has been passed is of the year 2017, the Debts Recovery Tribunal, Madurai is requested to ensure that the appeal is taken up at the Tribunal's earliest convenience and disposed of, preferably, within the next six months.



8. WP(MD) No.16642 of 2018 is disposed of without going into the merits of the matter and by leaving the writ petitioner free to pursue the writ petitioner's remedies before the appropriate forum in accordance with law. Consequently, connected Miscellaneous Petition is closed.

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9. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

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 Registrar,
The Debts Recovery Tribunal,
Madurai.
2. The Chief Manager,
The Central Bank of India,
Nagercoil,
Kanyakumari District.
Regional Office, Madurai.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-30519[F] dated 28/09/2021)

**W.P. (MD) No. 16642 of 2018
and
W.M.P.No.14728 of 2018
27.09.2021**

RD(6.10.2021) 3P 4C