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W.P(MD) No.20509 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2021

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.(MD) No.20509 of 2017

and

W.M.P(MD)No.16793 of 2017

N.Lakshmanan

.. Petitioner

Vs

1.Debt Recovery Appellate Tribunal (DRAT),
4th Floor, Indian Bank Circle Office,
55, Ethiraj Salai,
Chennai - 600 008.

2.Recovery Officer - I,
Debts Recovery Tribunal,
Madurai,
3rd and 4th Floors, Kalyani Towers,
4/162, Madurai - Melur Road,
Uthangudi,
Madurai - 107.

3.State Bank of India,
Industrial Finance Branch,
No.6-A, West Veli Street,
Madurai - 625 001.
represented by its
Branch Manager.

4.Sree Narayana Textiles (P) Ltd.,
represented by their
Chairman,
L.Narayanan Chettiar (died)

5.N.Thiagarajan
6.N.Palaniappan
7.N.Saraswathi
8.Visalakshmi
9.Meenakshi

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari to call for the records relating to the impugned order dated 01.06.2017 passed by the first respondent in R.S.No.17 of 2017 and quash the same with costs.



For Petitioner : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

For Respondents : Mr.G.Radhakrishnan for R.3

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ORDER

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

The petitioner claims not to be associated with the transactions between the private respondents and the third respondent bank which culminated in the bank initiating proceedings before the appropriate Debts Recovery Tribunal under Section 19 of the then Recovery of Debts due to Banks and Financial Institutions Act, 1993.

2. The petitioner claims that the petitioner was a mere director of the fourth respondent company and had not executed any deed of guarantee nor furnished any security in respect of the credit facilities obtained by the fourth respondent from the third respondent bank. Though the petitioner was arrayed as a party to the proceedings, the petitioner claims that he was assured by the other private respondents, who are his close relatives, that they would take care of the matter. As a consequence, the petitioner claims that he did not contest the proceedings before the Debts Recovery Tribunal.

3. The Debts Recovery Tribunal issued a certificate, inter alia, against the petitioner herein, whereupon the petitioner filed a review petition before the Debts Recovery Tribunal for the order against the petitioner to be set aside. The petitioner says that the Debts Recovery Tribunal appreciated the petitioner's position and restrained the Recovery Officer from proceeding against the petitioner in respect of the certificate issued. However, the petitioner complains that the Debts Recovery Tribunal failed to lift an order of attachment in respect of a property of which the petitioner claims to be a part-owner.

4. According to the petitioner, he carried such limited grievance to the Debt Recovery Appellate Tribunal, Chennai against the refusal by the Debts Recovery Tribunal, Madurai to lift the order of attachment in respect of a property which is partly-owned by the petitioner by virtue of a document of the year 1957. The petitioner claims that the petitioner has also instituted a suit in the year 2012 in respect of the property.

5. There appears to be sufficient basis indicated in the order impugned dated June 1, 2017 passed by the Debt Recovery Appellate Tribunal to not remove the order of attachment. For one, some of the certificate debtors are also joint or part-owners of the property in



question and, as such, the order of attachment could not have been lifted. As to the petitioner's grievance that to the extent the petitioner's title to the property is clouded by the order of attachment is concerned, since the petitioner has carried an independent suit, the remedy of the petitioner lies therein.

6. The order impugned passed by the Debt Recovery Appellate Tribunal does not call for any interference. However, it will be open to the petitioner to obtain appropriate reliefs in the petitioner's suit, as long as the third respondent bank is given notice of the relevant proceedings.

7. W.P(MD).No.20509 of 2017 is disposed of with the above observation. W.M.P(MD).No.16793 of 2017 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar (Crl side)

// 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.Debt Recovery Appellate Tribunal (DRAT),
4th Floor, Indian Bank Circle Office,
55, Ethiraj Salai, Chennai - 600 008.

2.Recovery Officer - I,
Debts Recovery Tribunal,
Madurai,
3rd and 4th Floors, Kalyani Towers,
4/162, Madurai - Melur Road,
Uthangudi, Madurai - 107.

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-30574[F]dated 29/09/2021)

W.P. (MD) No.20509 of 2017

and

W.M.P (MD) No.16793 of 2017

28.09.2021