



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU

W.P.Nos.227 to 229 of 2022

and

W.M.P.Nos.259, 261 and 262 of 2022

The South India Concerns Limited
a Company incorporated under the Companies Act, 1913
having its Registered Office at Agra Building, 1st Floor,
121, Mahatma Gandhi Road, Fort, Mumbai - 400 001
Rep by its Director Authorised Signatory,
Mr.Subodh Mody

... Petitioner in all the writ petitions

vs

1. Canara Bank,
ARM Branch,
5th Floor, "Venkatramana Centre",
No.550, Anna Salai,
Teynampet, Chennai - 600 018.

2. M/s Sanraa Media Limited,
33/6, B.R.Complex, II Floor,
C.P.Ramasamy Road, Alwarpet,
Chennai - 600 018

3. Mrs.Uma Karthikeyan

4. Sukumar Subramanian ... RR 1 to 4 in WP.No.227,228 &
229 of 2022

Mr.G.Sundaresan (Deceased) ... in WP.No.228,229 of 2022

5. The Thane Janata Sahakari Bank,
Arihant Darshan,
Junction of Tilak Road & Hingwala Lane,
Ghatkopar (East), Mumbai - 400 077.

6. Mrs.Usha Sundaresan



7. Siddharth Sundaresan

8. Bharat Sundaresan

9. The Registrar,
Debts Recovery Appellate Tribunal (DRAT),
7th Floor, Additional Building,
Shastri Bhawan, Haddows Road,
Chennai - 600 006.

.. RR 5 to 9 in WP.No.227,228 & 229 of 2022

Prayer: Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the concerned records relating to the order passed by the 9th respondent herein vide orders dated 28.07.2021 passed in M.A.Nos. 31, 73 and 53 of 2018 and quash the same and consequently direct the 9th respondent to take up the appeals and dispose of the same as expeditiously as possible.

For the Petitioner : Mr.Karthik Seshadri
(in all WP's)

For the 1st Respondent : Mr..Kadhirvelu
(in all WP's)

COMMON ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

By these writ petitions, a challenge is made to the orders dated 28.07.2021 passed by the Debt Recovery Appellate Tribunal, Chennai, in M.A.Nos.31, 73 and 53 of 2018 respectively with a direction to take up the appeals and dispose of the same expeditiously.

2. The learned counsel for the petitioner submits that when the Debts Recovery Tribunal did not allow the petitioner to cross-examine a witness, appeals were preferred before the Debts Recovery Appellate Tribunal. An interim order was passed by the Appellate Tribunal. The matter was adjourned from time to time, as is coming out from the perusal of the proceedings before the Appellate Tribunal for the past 3 ½ years. On 28.07.2021, the learned counsel for the petitioner was present, yet the interim order was vacated without assigning any reason though the



interim order was in operation for the last more than 7 years. In view of the above, the challenge to the said orders has been made seeking a further direction to the Appellate Tribunal to hear and decide the appeals so that the petitioner, being a guarantor, would get a chance of cross-examine the witness.

3. We have considered the submission made by the learned counsel for the petitioner and perused the records.

4. The perusal of the orders dated 28.07.2021 shows that despite the presence of the learned counsel for the petitioner/appellant, he did not argue the case finally despite a request by the Tribunal. The Original Applications were pending for the last 7 years and therefore, the Tribunal did not find it appropriate to extend the interim order.

5. The learned counsel for the petitioner was asked as to why the petitioner was not willing to argue the case on 28.07.2021 when it was pending for the last 7 years and ripe for hearing as pleading was complete, no answer or justification has been given. It is apart from the fact that no effort was made by the petitioner to make an application before the Appellate Tribunal to seek revival of the interim order by recalling the order dated 28.07.2021 till the Appellate Tribunal was fully functional. The inaction to seek revival of the interim order by recalling the order dated 28.07.2021 shows the effort of the petitioner to delay the matters. A guarantor does not mean that he would not be willing to argue the appeal and get it adjourned and for that reason, the interim order was vacated to contest it by filing a writ petition.

For all the reasons given above, we do not find any case in favour of the petitioner to interfere with the order dated 28.07.2021. The writ petitions are, accordingly, dismissed. No costs. Consequently, W.M.P.Nos.259, 261 and 262 of 2022 are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

sra



To:

1. Canara Bank,
ARM Branch,
5th Floor, "Venkatramana Centre",
No.550, Anna Salai,
Teynampet,
Chennai - 600 018.
2. The Registrar,
Debts Recovery Appellate Tribunal (DRAT),
7th Floor, Additional Building,
Shastri Bhawan, Haddows Road,
Chennai - 600 006.

+6ccs to Mr.A.Asif Basha, Advocate, S.R.Nos.1314 to 1316

W.P.Nos.227, 228 and 229 of 2022

EV(CO)
SU(12/01/2022)