

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2022

CORAM :

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

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.NO.6442 OF 2022

AND

WMP.NO.6538 OF 2022

M/s Ganekar & Co
Proprietor Sri.V.Elangovan,
No.71, Elaya Mudali Street,,
Old Washermanpet,
Chennai-600 021.

... Petitioner

vs

1. The Authorised Officer,
Canara Bank,Tondiarpet Branch,
No.50 G.A.Road, Tondairpet,
Chennai-21.

2. R.Raju
3. Mrs.Elizabeth Netto
4. S.Nagarajan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records in proceeding dated 12.02.2021 in I.A.No.1090 of 2019 in R.A.(SA)No.129 of 2018 of the Debts Recovery Appellate Tribunal at Chennai and quash the same as illegal and against law and consequently to implead the respondents 3 and 4 as party respondents in R.A.(SA)No.129 of 2018.

For the Petitioner : Mr.R.Chandrasudan

For the Respondents : Mr.S.Kesavan,
for RR 1, 3 and 4

: Mr.R.KM.Suresh, for R2

ORDER

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

The present writ petition has been filed to challenge the order dated 12.02.2021 passed by the Debts Recovery Appellate Tribunal where two applications moved by the petitioner were considered and decided. The first application was for impleadment of proposed respondents 3 and 4 in their personal capacity, who are none else but the officers of the respondent bank. The application aforesaid was dismissed by the Appellate Tribunal. The second application was to allow the petitioner to raise additional grounds for which it was observed that the matter would be heard at the time of final hearing and accordingly, the parties were directed to file their written statements. The present writ petition is against the dismissal of the application for impleadment.

2. It is submitted by the learned counsel for the petitioner that the officers of the respondent bank have to be impleaded as parties looking to their conduct for undervaluing the property before putting it for auction and therefore, in auction, the property could not fetch the value otherwise available in the market.

3. It is submitted by the learned counsel for the bank that for the aforesaid, a separate IA is pending before the DRAT where all the allegations can be taken note of and there, the petitioner can implead the officers as parties to the proceedings in their personal capacity, if he is aggrieved by their action. But, in the instant case, the appeal before the DRAT was not against the auction sale, but against the dismissal of the appeal by the petitioner on a notice under Section 13(4) of the Act of 2002. Thus, the issue involved in the appeal against the order of DRT would be not in reference to the auction sale, but against the dismissal of the appeal by the DRT.

4. We find substance in the argument of the learned counsel for the bank. The officers of the bank may not be relevant for the hearing of the appeal by the DRAT, but may be relevant to the IA maintained by the petitioner in separate proceedings to challenge the auction sale. Accordingly, we are not inclined to cause interference in the order of the DRAT.

5. The writ petition is, accordingly, closed with the observation that the dismissal of this petition would not be taken adverse to the petitioner in regard to the pending IA

where he challenged the auction sale and even made allegations against the bank officers for undervaluing the property. That issue may be determined separately without being influenced by the order passed herein. The DRAT would now expedite the hearing and decide the appeal at the earliest. No costs. Consequently, W.M.P.No.6538 of 2022 is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

sra

To:

The Authorised Officer,
Canara Bank,
Tondiarpet Branch,
No.50 G.A.Road, Tondairpet,
Chennai-21.

Copy To

The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.

+1cc to M/s.S.Kesavan, Advocate, S.R.No.44206

W.P.No.6442 of 2022

PMK(CO)
RLP(15/07/2022)