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W.M.P.No.15551 of 2022
in W.P.No.28511 of 2017

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THE HON'BLE ACTING CHIEF JUSTICE
and
D.KRISHNAKUMAR, J.

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

Mrs.T.Muthu Suseela, W/o.Thirunavukarasu, has filed this Writ Miscellaneous Petition seeking permission to withdraw the entire rental amount of Rs.48,13,500/- deposited by the sixth respondent/tenant, M/s.TVS Automobile Solutions Ltd., lying on the file of this Court.

2. Learned counsel appearing for the petitioner would submit that the first respondent company borrowed a loan from the fifth respondent/State Bank of India and the fourth respondent, Mrs.B.Rajalakshmi, had given the subject property to the Bank as security for the loan. Subsequently, the first respondent company failed to repay the loan amount and the fifth respondent Bank, as secured creditor, initiated proceedings under the SARFAESI Act and file O.A.No.297 of 2017 for recovery of a sum of Rs.2,21,31,512.06 and in



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order to realise the amount, the property was brought to auction by way of e-auction sale notice dated 18.08.2017. The petitioner herein participated in the auction and became the successful bidder and paid 25% of the bid amount. Challenging the auction sale, the borrower approached the Debts Recovery Tribunal, Coimbatore by filing S.A.No.278 of 2017 and a conditional interim order was passed directing the borrower to pay the amount in instalments and till then, not to confirm the sale. As against the same, the petitioner/auction purchaser went on appeal before the Debt Recovery Appellate Tribunal and obtained an order of stay. Before the borrower could get the said stay order vacated, the petitioner paid the remaining 75% of the amount and the bank also confirmed the sale and issued the sale certificate bearing Document No.3824/2017 in favour of the petitioner, by virtue of which the petitioner became the absolute owner of the subject property. Recording the same, the Debt Recovery Appellate Tribunal dismissed the appeal as having become infructuous, however, directed the Debts Recovery Tribunal to consider the legality of the auction sale and its confirmation while hearing S.A.No.278 of 2017.



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3. The aforesaid order of the Debts Recovery Appellate Tribunal has been challenged by way of the present writ petition. In the said writ petition, the petitioner and the sixth respondent/tenant were impleaded as second and third respondents. By order dated 18.01.2018, a Division Bench this Court directed the sixth respondent/tenant to deposit the monthly rent amount in an interest bearing account in Indian Bank, High Court Branch, periodically before 5th of every calendar month without deduction of tax at source. Accordingly, the sixth respondent deposited the monthly rent as directed and this Court, while disposing of the writ petition by order dated 12.03.2020, directed the amount already deposited lying in the credit of this Court be transferred to the credit of S.A.No.278 of 2017 on the file of Debts Recovery Tribunal, Coimbatore and also directed the future rents to be paid to the aforesaid credit.

4. In the meanwhile, the parties to the lis entered into a settlement and accordingly, an affidavit of declaration and undertaking was filed before the Debts Recovery Tribunal, based on which,



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5. The present miscellaneous petition is filed seeking to withdraw the sum of Rs.48,13,500/-, which is lying in the credit of this Court. We find that there is already an order of this Court dated 12.03.2020 directing the transfer of the amount already deposited in this Court. There is no material to show whether the said amount has already been transferred to the Debts Recovery Tribunal or not and the learned counsel for the petitioner is also not able to produce any material showing transfer of amount to the Debts Recovery Tribunal. In view of the same, we are of the view that the petitioner should have first approached the Registrar-General of this Court with a written request to transfer the entire amount in the credit of this Court. Till date, he has not moved any such request letter.

6. Therefore, the petitioner is given liberty to approach the Registrar-General of this Court with a written request to transfer the amount lying in the credit of this Court in Indian Court, High Court



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Branch, if not already transferred and if any such request is made, the same can be considered by the Registrar-General. If the amount has already been transferred pursuant to the order of this Court, the petitioner may approach the Debts Recovery Tribunal, Coimbatore, for withdrawal of the amount.

The Writ Miscellaneous Petition is, accordingly, disposed of.

(T.R., ACJ.) (D.K.K., J.)
26.09.2022

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T.RAJA, ACJ.
and
D.Krishnakumar, J.

(sra)

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26.09.2022