



W.P.No.15108 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2022

CORAM :

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

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.15108 of 2022

1.M.S.Vallikan

2.P.Arumugam

... Petitioners

Vs

1.M/s. Kotak Mahindra Bank Ltd.

Asset Reconstruction Division

Rep. by its Vice President

1st Floor Ceebros Centre

No.39, Montieth Road

Egmore Chennai 08

and presently at- 5th floor,

402-L, Pantheon Road,

Egmore, Chennai 600008.

2.V.Srinivasa Pattachariyar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records and quash the order dated 28/06/2021 passed by the Honble Debt Recovery Appellate Tribunal Chennai in AIR 89 of 2020.



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For the Petitioners : Mr.C.Manohar Gupta
for M/s.Gupta and Ravi

For the Respondents : Mr.Elayaraja Kumar,
for M/s.Ramalingam & Associates.

ORDER

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

By this writ petition, challenge is made to the order of the Debt Recovery Appellate Tribunal dated 28.06.2021.

2. After arguing the writ petition at length, learned counsel for the petitioners prayed for liberty to approach the appropriate forum to challenge the order passed by the Recovery Officer dated 23.08.2017. A further prayer is sought to allow them to participate in the auction sale of the property so as to purchase the entire land to save their two cents of land therein. They also pray that if a higher bid is given than the bid offered by the petitioners, they may be given a chance to offer a higher amount then. If these liberties are given, the petitioners would be satisfied. However, it is clarified that those liberties may be availed by the petitioners and would not be affected by the order of the Debt Recovery Appellate Tribunal under challenge.



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3. Learned counsel for the respondents submitted that the property in dispute has already been possessed by the bank and if the petitioners want to participate in the auction sale, there would be no difficulty, rather, anybody eligible for participation can do so and accordingly, the liberty as prayed for may be given. So far as the liberty to approach the appropriate forum, it is submitted that the same would be subject to the limitation and maintainability of the proceedings. A liberty may be given to the bank to raise all the objections.

4. In view of the rival submissions of the parties, we find insofar as the challenge to the order passed by Debt Recovery Appellate Tribunal is concerned, that is not to be pressed if liberty prayed by the petitioners are given and accordingly, we dispose of the writ petition with the following order:

(i) The petitioners would be at liberty to approach the appropriate forum to challenge the order of the Recovery Officer. Such proceedings would be maintained as per the provisions of law and the bank would be at



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liberty to raise all available objections, if any;

(ii) The petitioners would further be at liberty to participate in the auction, as and when conducted by the Recovery Officer. The Recovery Officer would be at liberty to call the parties for negotiation to fetch a higher price and to give an opportunity to the petitioners also.

5. The writ petition is disposed of with the aforesaid. There will be no order as to costs. Consequently, W.M.P.Nos.14313 and 14316 of 2022 are closed.

(M.N.B., C.J.) (N.M., J.)
05.07.2022

Index : Yes/No
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M.N.Bhandari, CJ.
and
N.Mala, J.

(tar)

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