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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.1.2022

CORAM :

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

AND

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

C.R.P.NO.2993 OF 2021

1. M/s.MRH Electronics, rep.by its
Partner D.Kamalakannan
2. M/s.Moorthy Vision, rep.by its
Partner D.Kamalakannan
3. D.Kamalakannan

.. Petitioners

vs

1. The Registrar, Debts Recovery
Appellate Tribunal, 7th Floor,
Shastri Bhawan, Haddows Road,
Chennai-34.
2. The Authorized Officer, Indian
Overseas Bank, No.127,
L.K.S.T.Towers, II Floor,
West Boulevard Road,
Trichy-620008.
3. Mrs.B.Vijaya
4. Mrs.J.R.Vasantha Devi (deceased)
(given up)

.. Respondents

Prayer: Petition filed under Article 227 of The Constitution of India against the fair and decretal order dated 19.7.2019 in I.A.No.225 of 2016 in AIR (SA) No.15 of 2014 on the file of the Debts Recovery Appellate Tribunal, Chennai.

For Petitioners

: Mr.K.A.Ramakrishnan



ORDER

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

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We have heard the learned counsel for the petitioners.

2. By this civil revision petition, challenge is made to the order dated 19.7.2019 passed by the Debt Recovery Appellate Tribunal, Chennai (for short, 'the DRAT') on the application made by the petitioners seeking to condone the delay in re-presenting the appeal papers. The DRAT dismissed the application finding no justification to condone the delay.

3. The learned counsel for the petitioners submits that the delay was due to the fact that the petitioners were pursuing a writ petition before this Court since a free certified copy of the order passed by the Debts Recovery Tribunal, Madurai dated 31.10.2013 in SA.No.47 of 2007 was not furnished to them and that the DRAT ought to have accepted the application for condonation of delay in re-presenting the appeal papers.

4. We have carefully considered the said submissions and perused the records.

5. After perusal of records, we find that the second respondent - bank issued a sale notice dated 11.5.2007 and it was challenged by filing SA.No.47 of 2007 before the concerned DRT, in which, a conditional order was passed on 15.6.2007 in favour of the petitioners. However, the petitioners failed to comply with the conditional order by depositing the amount. Hence, the properties were brought to sale.

6. This is one aspect to show that despite passing the conditional order by the concerned DRT, the petitioners have failed to deposit the amount. As a consequence thereupon, the properties were brought for auction by the second respondent - bank. The other issue pertains to the order dated 31.10.2013 passed in SA.No.47 of 2007 by the concerned DRT, a free copy of which was sent to the petitioners to their old address. This factum was also recorded by the DRAT in the impugned order.

7. The learned counsel for the petitioners has admitted that the new address was not given to the concerned DRT.

8. Therefore, we find that the free copy of the said order dated 31.10.2013 was indeed sent to the petitioners, however to their old address. Even if the above aspect is ignored, we do not find any substance in the matter. It is for the reason that



pursuant to the auction notice, not only the sale took place, but was confirmed. The sale deed was executed in favour of the auction-purchaser. In view of the above, the concluding right exists in favour of the third party and it has not been challenged. Further, after registration of the sale deed, it cannot be nullified unless the sale deed is challenged.

9. The aforesaid fact was taken into consideration by the DRAT for the reason that even if the delay is condoned, the matter is not going to survive in the given factual situation. The DRAT has, otherwise, taken note of the conduct of the petitioners, who somehow tried to delay the whole process and remained successful initially, by stalling the proceedings for seven years and now, a total period of 12 years had lapsed, as the matter was pending before the DRT concerned, later, the DRAT and thereafter, this Court. It was nothing but misuse and abuse of process of Court. We find no illegality in the order passed by the DRAT in the given factual situation. We also find no reason to interfere with the impugned order passed by the DRAT.

10. Accordingly, the above civil revision petition is dismissed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

RS

To:

1. The Registrar, Debts Recovery
Appellate Tribunal, 7th Floor,
Shastri Bhawan, Haddows Road,
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2. The Authorized Officer, Indian
Overseas Bank, No.127,
L.K.S.T.Towers, II Floor,
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+1cc to Mr.SR.Mounaswamynathan, Advocate, S.R.No.915

C.R.P.No.2993 of 2021

AD(CO)
RLP(11/01/2022)