



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.NO.16396 OF 2022

M/s.Anbu Agro Tech,
Rep. by its Proprietor,
K.Chandrasekaran,
No.100D, Karur Main Road,
Karaiyur, Dharapuram - 638 651.

... Petitioner

.Vs.

1. The Debt Recovery Tribunal,
Rep. by its Presiding Officer,
Coimbatore, Tamil Nadu.
2. The Canara Bank,
Rep. by its Authorised Officer,
Regional Office,
Tirupur - 641 604.
3. The Canara Bank,
Rep. by its Branch Manager,
Kolathupalayam,
Dharapuram.
4. P.Velusamy,
Advocate Commissioner,
No.19, Raja Rao Street,
Tirupur.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus forbearing the respondents 2 to 4 from dispossessing the petitioner in any manner particularly by way of taking physical possession of the petitioner's agricultural properties including residential building viz. Item No.1: Tirupur Registration District, Dharapuram Sub-Registration District, North Street, Door No.24B,



Block No.3, Ward No.4, T.S.No.125 and T.S.No.126 to an extent of 231 sq. ft. of land and 220 sq. ft. of land and residential building thereon. Item No.2: Tirupur Registration District, Dharapuram Sub-Registration District, North Street, Door No.24B, Block No.3, Ward No.4, T.S.No.127 to an extent of 1462 sq. ft. on land and residential building thereon. Item No.3: Tirupur Registration District, Dharapuram Sub-Registration District, Alampalayam Village, S.F.No.1021/A, 1021/B, Re-Survey No.1148/2, 1148/4 to an extent of 0.91 Acres of land and building thereon and Item No.4: Tirupur Registration District, Dharapuram Sub-Registration District, Alampalayam Village, S.F.No.1021/A, Re-Survey No.1148/1 to an extent of 0.025 Acres of land and building thereon pending disposal of petitioner's application vide I.A.No.2194/2022 in S.A.No.400 of 2022 before the first respondent herein for extension of time to pay the second installment as directed by the first respondent/Tribunal.

For the Petitioner : Mr.D.S.Rajasekar
For Mr.M.Vembadian

ORDER

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

The writ petition has been filed to restrain respondents 2 to 4 from dispossessing the petitioner by taking physical possession of the property mortgaged while borrowing the loan.

2. It is stated that assailing an order passed by the Chief Judicial Magistrate, Tiruppur District, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "the Act of 2002"] directing the Court Commissioner to take possession of the property, the petitioner filed an appeal under Section 17 of the Act of 2002 before the Debts Recovery Tribunal. The Debts Recovery Tribunal, vide order dated 21.4.2022, granted interim stay of the order passed by the Chief Judicial Magistrate on condition that the petitioner deposits the amount referred therein in two installments. The petitioner paid the first installment in time, but the payment of second installment could not be made in time and, therefore, an application was moved on 6.6.2022 to extend the time for making payment of the second instalment.

3. It is further stated that as the aforesaid application was not heard by the Debts Recovery Tribunal and the Registrar of the Debts Recovery Tribunal adjourned the matter in the absence of the Presiding Officer, the petitioner had filed the



writ petition to restrain the respondents from taking possession of the property. It is more so when it is an agricultural land.

4. We have considered the submission made by learned counsel for the petitioner and perused the record.

5. The prayer in the writ petition is nothing but to get over the default committed by the petitioner in complying with the direction given by the Debts Recovery Tribunal while granting the interim order. Admittedly, the petitioner defaulted in making payment of the second installment as was directed by the Debts Recovery Tribunal. The application for extension of time was moved on 6.6.2022 and immediately thereupon the present writ petition has been filed. It is stated that the matter was listed before the Registrar of the Debts Recovery Tribunal on 23.6.2022, but adjourned in the absence of the Presiding Officer. There is nothing in the affidavit to support the said stand. An oral statement cannot be accepted.

6. Paragraph (10) of the affidavit does not make a reference of the application dated 6.6.2022. That apart, no order sheet has also been placed on record to show what order was passed on that date, i.e., whether the matter was posted to the next date on the prayer of the petitioner or otherwise.

7. In view of the above, as nothing has been stated in the affidavit about the application filed by the petitioner on 6.6.2022 to seek extension of time, we do not find this to be bona fide petition, rather during the pendency of the application to seek extension of time, writ petition has been filed to seek further order to protect the possession, despite default in making payment as directed by the Debts Recovery Tribunal while granting an interim order.

8. We are, therefore, of the opinion that the relief prayed by the petitioner cannot be granted unless the Tribunal grants extension of time to pay the amount.

9. The writ petition is, therefore, closed with liberty to the petitioner to pursue his application before the Tribunal. There will be no order as to costs. Consequently, W.M.P.No.15691 of 2022 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar



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To

1. The Presiding Officer,
Debt Recovery Tribunal,
Coimbatore, Tamil Nadu.
2. The Authorised Officer,
Canara Bank,
Regional Office,
Tirupur - 641 604.
3. The Branch Manager,
Canara Bank,
Kolathupalayam,
Dharapuram.

+1cc to Mr.M.Vembadian, Advocate, S.R.No.41201

W.P.NO.16396 OF 2022

SJ(CO)
PBS/07/07/2022