



WEB COPY



W.P.No.29210 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.29210 of 2022

A.Mohammed Asif

.. Petitioner

v.

Authorised Officer
Cholamandalam Investments &
Finance Co.Ltd.,
DARE House
2, NSC Bose Road
Parrys
Chennai 600 001

.. Respondent

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records and quash the order of the Hon'ble DRT, Coimbatore in S.A.No.465 of 2022 dated 23.05.2022 and consequently to modify the condition imposed.

For Petitioner :: Mr.Thanu Madhan N.S.



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ORDER

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This writ petition has been filed against the impugned order dated 23.05.2022 passed by the Debts Recovery Tribunal, Coimbatore in S.A.No.465 of 2022, whereby the Tribunal has directed the petitioner to deposit a sum of Rs.25 lakhs, out of which a sum of Rs.12.50 lakhs shall be paid on or before 20.06.2022 and another sum of Rs.12.50 lakhs shall be paid on or before 18.07.2022 to the respondent Bank. After making the first deposit of Rs.12.50 lakhs to the respondent Bank, the petitioner has come to this Court by taking two grounds.

2. Learned counsel appearing for the petitioner, firstly, attempted to justify the petitioner's grievance not to go before the Debts Recovery Appellate Tribunal on the ground that it will take a long time for getting the appeal numbered and listed before the Appellate Tribunal, in the meanwhile, the property of the petitioner would be brought for sale. Secondly, the learned counsel submitted that when the petitioner had



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already repaid a sum of Rs.49 lakhs to the respondent Bank and has also now made the deposit of Rs.12.50 lakhs, the petitioner is entitled to espouse his grievance in the writ petition.

3. We are unable to appreciate the contentions of the learned counsel appearing for the petitioner, for the following reasons. When there was a conditional order dated 23.05.2022 passed by the Debts Recovery Tribunal, Coimbatore in S.A.No.465 of 2022 directing the petitioner to deposit a sum of Rs.12.50 lakhs on or before 20.06.2022 and another sum of Rs.12.50 lakhs on or before 18.07.2022 to the respondent Bank, the petitioner, if aggrieved, in all fairness, should have approached the Debts Recovery Appellate Tribunal by way of filing appeal. It appears that the petitioner has not even filed the appeal within the stipulated time. Therefore, to get over the plea of limitation, he has resorted to file the writ petition under Article 226 of the Constitution of India by making a claim that the process of filing appeal before the Debts Recovery Appellate Tribunal would take a long time. Such an attitude of the petitioner cannot be appreciated by us, when he



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has failed to avail the effective and alternative legal remedy. Therefore, the writ petition fails and it is dismissed.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.K.K.,J.)

Index : yes/no

07.11.2022

SS

To

1. The Presiding Officer
Debts Recovery Tribunal
Coimbatore



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

SS

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