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W.P.No.32325 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.32325 of 2022

M/s.Thilak International,
rep. by its Partner D.Joseph Raja,
4C/5, 4C/7, Mani Nagar,
Tuticorin-628 003.

.. Petitioner

vs

1.UCO Bank,
Regional Office,
Chennai-600 024
rep. by the Authorised Officer.

2.UCO Bank,
Tuticorin Branch,
208, C.D. V.E. Road,
Tuticorin-628 003
rep. by its Branch Manager.

3.G.Saravanan
4.Dr.J.Saravanan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the



W.P.No.32325 of 2022

records and return the order in Diary No.647/2022 in R.A. (S.A.) No.62 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and quash the same as illegal and further direct the respondents 1 and 2 to receive entire dues from the petitioner within a stipulated time fixed by this Court.

For the Petitioner : Mr.J.Antony Jesus

ORDER

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

The petitioner, M/s.Thilak International, represented by its partner D.Joseph Raja, has filed the instant writ petition for quashing the order dated 20.9.2022 made in Diary No.647 of 2022 in R.A.(SA) No.62 of 2018, whereby the Debt Recovery Appellate Tribunal, Chennai, returned the unnumbered application filed by the petitioner in Diary No.647 of 2022 in R.A. (SA) No.62 of 2018.

2. The grievance of the petitioner is that the petitioner had borrowed a sum of Rs.28 lakh from the respondent bank and after depositing a sum of Rs.10 lakh including the interest, the petitioner offered to pay the entire amount before the Debt Recovery



W.P.No.32325 of 2022

Appellate Tribunal, Chennai, where the appeal is now pending.

According to the petitioner, the said offer of paying the entire amount to the respondent bank was not accepted.

3. Learned counsel for the petitioner submitted that the petitioner is ready and willing to clear the outstanding dues with interest and, as such, an offer was made before the Debt Recovery Appellate Tribunal. However, instead of receiving the money and closing the appeal pending on its file, the Debt Recovery Appellate Tribunal refused to accept the offer made by the petitioner. Therefore, a direction may be issued to the respondent bank to receive the outstanding dues with interest so as to enable the petitioner to retain its property.

4. Learned counsel for the petitioner submitted that after issuance of notices under Section 13(2) and Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "*the Act of 2002*"], sale notice dated 20.1.2007 was issued and the sale was



W.P.No.32325 of 2022

held on 1.2.2007. Challenging the paper publication effected on 20.1.2007 for sale of the property, the petitioner has filed W.P.No.3318 of 2007 and, by the order dated 31.1.2007, this Court granted stay, however, finally, the said writ petition was dismissed on 12.12.2007. It is stated that on 8.1.2008, the sale certificate was issued to the successful bidder without the knowledge of the petitioner.

5. Learned counsel for the petitioner would submit that when the petitioner has filed TSA No.60 of 2007 before the Debts Recovery Tribunal, Madurai questioning the sale notice and for an order quashing the proceedings initiated by the respondent bank under Section 13(2) of the Act of 2002, the Debts Recovery Tribunal, Madurai, by the order dated 31.1.2008, allowed TSA No.60 of 2007 holding that the respondent bank has not taken the action in compliance with the provisions of law and, accordingly, quashed the sale notice issued by the respondent bank. Challenging the order of the Debts Recovery Tribunal, Madurai, the respondent bank filed RA (SA) No.111 of 2008 before the Debt



W.P.No.32325 of 2022

Recovery Appellate Tribunal, Chennai and, by the order dated 10.3.2011, the Debt Recovery Appellate Tribunal, Chennai observed that the notices dated 10.3.2006 issued by the bank reveals that two different notices have been issued, namely the possession notice under Section 13(4) of the Act and the notice of sale. Holding that the Authorised Officer has taken action only in accordance with the provisions under the Act of 2002, the Debt Recovery Appellate Tribunal, Chennai, allowed the appeal.

6. Learned counsel further submitted that assailing the order dated 10.3.2011, the petitioner has filed W.P.No.18753 of 2011 and a Division Bench of this Court, by the order dated 11.8.2011, directed the parties to maintain *status quo* till 25.8.2011 and, finally, by the order dated 28.8.2012, this Court set aside the order of Debt Recovery Appellate Tribunal, Chennai and remitted the matter back to the Debts Recovery Tribunal, Madurai for fresh consideration. Pursuant to the order passed in the writ petition, TSA No.60 of 2007 was taken on file and by the order dated 17.11.2017, the Debts Recovery Tribunal, Madurai dismissed the



W.P.No.32325 of 2022

TSA No.60 of 2007. Aggrieved thereby, an appeal, being R.A. (SA) No.62 of 2018 has been filed before the Debt Recovery Appellate Tribunal, Chennai, wherein a conditional order was passed directing the petitioner to deposit a sum of Rs.10 lakh. In compliance of the conditional order, the petitioner has deposited a sum of Rs.10 lakh with the Registrar of the Debt Recovery Appellate Tribunal, Chennai on 18.1.2018 towards pre-deposit and the Debt Recovery Appellate Tribunal, Chennai also ordered *status quo* pending appeal pursuant to the pre-deposit.

7. Learned counsel for the petitioner added that pending RA (SA) No.62 of 2018, the petitioner has filed an application in Diary No.647 of 2022 to direct the respondent bank to receive the payment of the dues from the petitioner towards settlement of the loan. The said application has been returned by the Debt Recovery Appellate Tribunal, Chennai, questioning the maintainability on 20.9.2022, which has been assailed in the present writ petition.

8. We are able to see that the Debts Recovery Tribunal,



W.P.No.32325 of 2022

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Madurai set aside the notice dated 10.3.2006 issued by the respondent bank on the premise that the petitioner was not served with notice under Section 13(2) of the Act of 2002. The appeal preferred by the respondent bank against the said order was allowed and assailing the order of the appellate authority a writ petition was filed. A Division Bench of this Court remitted the matter to the Debts Recovery Tribunal and by the order dated 17.11.2017, the Debts Recovery Tribunal dismissed the TSA No.60 of 2007 against which the appeal, being RA (SA) No.62 of 2018 is pending before the Debt Recovery Appellate Tribunal, Chennai.

9. It is the admitted case of the parties before the Debts Recovery Tribunal that notice under Section 13(2) of the Act of 2002 was not issued and the said issue is in seisin of the Debt Recovery Appellate Tribunal, Chennai. In the meanwhile, the petitioner has come forward to pay the entire outstanding dues payable to the respondent bank.

10. Considering the fact that the petitioner is now willing to



W.P.No.32325 of 2022

pay the entire due payable with interest and since the appeal is pending for consideration before the Debt Recovery Appellate Tribunal, Chennai for final hearing, instead of entertaining this writ petition, we deem it appropriate to direct the Debt Recovery Appellate Tribunal, Chennai, to take up RA (SA) No.62 of 2018 and dispose of the same on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

11. With the above observation, the writ petition is disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.31716 and 31718 of 2022 are closed.

(T.R., ACJ.) (D.K.K., J.)
02.12.2022

Index : No
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W.P.No.32325 of 2022

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To:

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UCO Bank,
Regional Office,
Chennai-600 024.
- 2.The Branch Manager,
UCO Bank,
Tuticorin Branch,
208, C.D. V.E. Road,
Tuticorin-628 003.



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W.P.No.32325 of 2022

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D.KRISHNAKUMAR,J.

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