



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P. (MD) No.1017 of 2022

WEB COPY

P.Jeyakumar

... Petitioner/Petitioner/Third Party
(Successor in interest of 2nd Respondent/
Third party/Third Party)

Vs.

1.The South Indian Bank Ltd.,

Having its Registered Office at

Thirissur, Kerala State and one of its

Branches at Madurai, Madurai District,

Rep. by its Senior Manager. ... 1st Respondent/1st Respondent/

Certificate Holder Bank/

Certificate Holder Bank/Applicant Bank

2.M.Paramasivam

Sole Proprietor,

M/s.Mathanki Jewellery,

Door No.23, Chinthamani Road,

Madurai - 625 009.

... 2nd Respondent/2nd Respondent/

Certificate Debtor/

Certificate Debtor/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 26.04.2022 passed in M.A.SR.No.2330 of 2022 in Recovery Proceedings (RP) No.334 of 2018 in D.R.C.No.334 of 2018 in O.A.No.385 of 2013 on the file of Recovery Officer II, DRT, Madurai and allow the present Civil Revision Petition.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.R.Pandivel,
Standing Counsel - for R1

O R D E R

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The grievance of the petitioner is that even after the settlement of the entire dispute and the Debt Recovery Certificate having been recalled by the Presiding Officer of the Debts Recovery



Tribunal, the petitioner is being made to run from pillar to post to have the entry relating to the order of attachment passed by the Recovery Officer on 28.05.2019 cancelled /deleted.

2. A Recovery Certificate was issued in favour of the respondent Bank against one Mr.Paramasivam for repayment of a sum of Rs.14,54,137.58 p. (Rupees Fourteen Lakhs Fifty Four Thousand One Hundred and Thirty Seven and Fifty Eight Paise only) on 28.07.2018. Pursuant to the same, recovery proceedings were launched before the Recovery Officer attached to the Debts Recovery Tribunal, Madurai. The Recovery Officer by his proceedings, dated 28.05.2019 passed an order prohibiting the owners from dealing with the property subject matter of the memorandum of deposit of title deeds. Even before such order was made, the original debtor had sold the property to the petitioner. The original debtor discharged the entire loan and there was a full satisfaction recorded, pursuant to which, the Debts Recovery Tribunal, recalled the Debt Recovery Certificate issued by it. Therefore, it must automatically follow that the order of attachment passed by the Recovery Officer is also lifted.

3. When the petitioner had approached the Recovery Officer seeking for deletion of the entry regarding the attachment, the said application was returned stating that the debtor or the applicant Bank alone can seek for deletion of the entry. We are not able to comprehend the orders of the Recovery Officer. The very attachment itself was made by the Recovery Officer, pursuant to the Debts Recovery Certificate issued by the Debts Recovery Tribunal. The Debts Recovery Tribunal, has recalled the Debt Recovery Certificate. Hence the very basis on which the order of attachment was made has disappeared. If the basis goes, the consequence namely, the order of attachment has to disappear. Unfortunately, the Recovery Officer had taken a technical stand and returned the application filed by the petitioner seeking for a direction to the Sub Registrar to delete the entry relating to encumbrance. Procedure is only a hand made justice and it cannot be allowed to defeat justice.

4. Hence, this Civil Revision Petition is allowed. The order of the Recovery Officer, returning the application is set aside. The application for deletion of entry will stand allowed. There will be a direction to the Sub Registrar, Arasaradi, Madurai, to remove the entry regarding the attachment, dated 28.05.2019. Since the very debt itself has been satisfied, the Debt Recovery Certificate has been withdrawn by the Debts Recovery Tribunal. Such exercise shall be carried out within a period of 15 days from the date of production of the copy of this order before the Sub-Registrar, Arasaradi, Madurai.



5. We also further direct that the Debt Recovery Officers attached to the Debts Recovery Tribunals, shall recall orders of attachment, once the debt is satisfied and full satisfaction is recorded or when the Tribunal recalls the Debt Recovery Certificate on satisfaction of the debt. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rm

To

1. The Recovery Officer II,
Debts Recovery Tribunal,
Madurai
2. The Sub-Registrar,
Arasaradi,
Madurai.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-22802[F] dated
29/04/2022)

C.R.P. (MD) No.1017 of 2022
29.04.2022

sp(CO)
TR(15.06.2022) 3P 4C