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W.P(MD)No. 18883 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 04.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY  
and  
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P (MD)No. 18883 of 2021  
and  
W.M.P (MD) Nos.15711 and 15713 of 2021  
and  
Contempt Petition (MD) No. 1594 of 2021  
and  
Sub Application (MD) No.330 of 2021

**W.P (MD)No. 18883 of 2021**

Dr.Venkatesh Babu

.. Petitioner

Vs

1.The Authorized Officer,  
City Union Bank Ltd,  
Credit Recovery and Management Department,  
Administrative Office, No.24-B, Gandhi Nagar,  
Kumbakonam - 612 001, Thanjavur District.

2.The Branch Manager,  
City Union Bank Ltd.,  
Tirunelveli Branch,  
No.93, East Car Street,  
Tirunelveli Town, Tirunelveli.

3. N.Ravisankar.  
(R3 is impleaded vide Court order  
dated 28.02.2022 in W.M.P (MD) No.  
17136/2022)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records pertaining to the order dated 22.09.2021 in S.A.No.21 of 2021 in Appeal AIR 54/21 on the file of DRAT, Chennai quash the same and grant extension of time for depositing Rs.30,00,000/- as per the direction of the DRAT by four weeks.

For Petitioner : Mr.R.Anand  
for Mr.S.George Bush

For Respondents : Mr.H.Mohammed Imran  
for Mr.Pala.Ramasamy for R1 & R2  
Mr.R.Sriram for R3



**Contempt Petition (MD) No. 1594 of 2021:**

Dr.Venkatesh Babu

.. Petitioner

Vs

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1.Mr.Arul Arasu

The Authorized Officer,  
City Union Bank Ltd,  
Credit Recovery and Management Department,  
Administrative Office,  
No.24-B, Gandhi Nagar,  
Kumbakonam - 612 001,  
Thanjavur District.

2.B.Karthikeyan,

The Branch Manager,  
City Union Bank Ltd.,  
Tirunelveli Branch, No.93, East Car Street,  
Tirunelveli Town, Tirunelveli.

.. Respondents

Petition filed under Section 11 of Contempt of Court Act, 1971 to punish them by awarding maximum punishment provided in the said Act in view of their deliberate disobedience of the order passed by this Hon'ble Court in W.P(MD) No.18883 of 2021 and W.M.P (MD) No.15711 & 15713 of 2021 dated 21.10.2021.

For Petitioner : Mr.R.Anand

for Mr.S.George Bush

For Respondents : Mr.H.Mohammed Imran

for Mr.Pala.Ramasamy for R1 & R2

**COMMON ORDER**

[Made by PARESH UPADHYAY, J.]

Challenge in the writ petition is made to the order recorded by the Debt Recovery Appellate Tribunal (DRAT) at Chennai dated 22 September 2021 on AIR (S.A.)No. 54 of 2021 (I.A. 77/2021 in S.A. No. 21 of 2021 - DRT, Madurai). The subject matter of the Contempt Petition is the interim order passed by this Court in the said (this) writ petition dated 21 October 2021. These petitions are filed by a person who was facing proceedings by the respondent bank for default in repayment of the loan. The merits of the default is not the direct subject-matter before this Court, however it arises from the proceedings taken out by the writ petitioner qua those proceedings.



2. Heard Mr.R.Anand, learned advocate for the petitioner, Mr.H.Mohammed Imran, learned advocate for the respondent bank and Mr. R.Sriram, learned advocate for the auction purchaser.

3. Having heard the learned advocates for the respective parties and having considered the material on record, this Court finds as under:-

3.1 The petitioner had approached the Debts Recovery Tribunal (DRT), Madurai by filing S.A.No.21 of 2021. In the said proceedings, IA No. 77 of 2021 was filed praying for interim protection which was rejected by the DRT vide order dated 02 February 2021, a copy of which is on record.

3.2 The above was challenged before this Court by filing petition being W.P(MD) No.2187 of 2021 which was dismissed by this Court on 05 February 2021, leaving it to the petitioner to approach DRAT.

3.3 The petitioner filed the proceedings before DRAT being ARI (SA) 54 of 2021, on which protection was granted by the Appellate Tribunal vide order dated 22 September 2021. The operative part of the said order reads as under:-

*"In view of the fact that DRAT cannot entertain any Appeal unless and until the appellant complies with the formalities on pre-deposit and in this case sale amount is less, I hereby direct the appellants to make a pre-deposit of Rs.1.20 crores with the Registrar of this Tribunal in two instalments, out of which 1<sup>st</sup> instalment of Rs.60 lakhs has to be deposited within a period of four weeks from today and 2<sup>nd</sup> instalment of Rs.60 lakhs has to be deposited in next four weeks thereafter.*

*In the event of failure in any part of the amount, the appeal stands dismissed automatically without any reference by this Tribunal. IA is disposed and closed. On receiving pre-deposit amount, appellants will be entitled for protection from recovery exercise and parties will maintain status quo.*

*List for confirmation of pre-deposit on 20.10.2021."*

3.4 The compliance of the above order was to be reported to the DRAT on 20 October 2021. On 21 October 2021, this petition was filed before this Court and the same was mentioned for lunch motion. The request of the petitioner was accepted and interim order was passed in the following terms:-

*"3. In view of the submissions made by the learned counsel appearing for the petitioner, we*



direct the petitioner to deposit the sum of Rs.30,00,000/- (Rupees Thirty Lakhs Only) before the Registrar (DRAT) on or before 25.10.2021. The balance sum of Rs.90,00,000/- (Rupees Ninety Lakhs Only) should be deposited to the credit of Registrar (DRAT) on or before 30.11.2021.

4. Immediately on payment of Rs.30,00,000/- (Rupees Thirty Lakhs Only) on or before 25.10.2021, the petitioner will be entitled for protection from recovery exercise and the parties shall maintain status quo. We make it clear that in the event of the petitioner not depositing the amounts in two instalments, as stated above, interim order granted by this Court shall stand vacated automatically without further reference to the Court."

3.5 The above order was further extended vide order dated 15 November 2021 till 20 December 2021.

3.6 In the meantime, the petitioner paid Rupees Thirty Lakhs as stipulated in the order dated 21 October 2021 but thereafter there is no further payment, neither as stipulated in the order dated 21 October 2021 nor even by the extension granted vide order dated 15 November 2021 i.e., up to 20 December 2021.

3.7 The matter stands thus, so far the petitioner is concerned.

4.1 In the meantime, the petitioner filed contempt petition before this Court *inter-alia* complaining therein that, the sale deed in favour of the auction purchaser could not have been executed and in any case, the document could not have been registered by the Sub-Registrar.

4.2 From record it transpires that, the petitioner had already filed some proceedings before DRT joining the auction purchaser as party respondent vide the application given on 21 September 2021. A copy thereof is on record.

4.3 While filing petition before this Court on 21 October 2021, he did not even mention the name of the auction purchaser, leave aside joining him as party respondent. Separately the petitioner filed an application for impleadment of Sub-Registrar in the contempt proceedings, with the understanding that the Sub-Registrar had exposed himself to the contempt proceedings before this Court for non-compliance of the order dated 21 October 2021. The said CMP is pending for hearing.

4.4 In the meantime, the auction purchaser filed petition before this Court for being impleaded being C.M.P(MD) No.17136 of



2021, which was allowed by this Court vide order dated 28 February 2022.

5. It is in the above factual background, it needs to be decided whether the petitioner is entitled to any relief, or whether the relief already granted holds the field and further, whether any contempt proceedings needs to be carried further against the alleged contemnor.

6. The sequence of events noted above make it clear that the order passed by this Court dated 21 October 2021 is not complied with by the petitioner, even with the further extension granted on 15 November 2021, which was till 20 December 2021. The effect thereof is that, the interim protection granted by this Court vide order dated 21 October 2021 does not hold the field, going by the stipulation in para 4 of the said order, which reads to the effect that, '*...we make it clear that in the event of the petitioner not depositing the amounts in two instalments, as stated above, interim order granted by this Court shall stand vacated automatically without further reference to the Court.*' The said order thus does not hold the field. Not only there is no reason to grant extension, the petitioner has dis-entitled himself from getting any further relief from this Court, for the circumstances which are noted above and few of which are noted hereinafter. Since we find that, interim order dated 21 October 2021 even with the extension on 15 November 2021 order does not hold the field, there is no question of entertaining the contempt petition arising from that order. The contempt petition therefore is dismissed. Consequently Sub Application to implead Sub-Registrar therein would not survive. Even otherwise, on merits, the Sub-Registrar was not required to be called by this Court to face the contempt proceedings.

7. So far the main matter (writ petition) is concerned, we find that not only the time limit prescribed by this Court in two orders is not observed by the petitioner, the DRAT had also stipulated that, in the event of non-observance of the time limit in the order passed by it, the protection would not stand. Thus by the operation of the stipulation even in that order, the said order of the Appellate Tribunal does not hold the field. There is nothing to be vacated by this Court. The only question is, whether the protection by any of those orders need to be extended, and that answer, for the reasons recorded above, is NO. This petition therefore needs to be dismissed on merits.

8. Not only the petitioner is not entitled to relief on merits as noted above, there are various other factors including suppression of material fact, which may be relevant for exploring imposition of costs. Let there not be any further addition to the miseries of the petitioner.



9. For the above reasons, along with the contempt petition (as noted in para: 6 above), writ petition is also dismissed. No costs. Connected C.M.Ps would not survive.

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Sd/-

Assistant Registrar(CS-III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Debts Recovery Appellate Tribunal, Chennai.

+1 CC to M/s.S.GEORGE BUSH, Advocate ( SR-10457[F] dated 07/03/2022 )

W.P(MD)No. 18883 of 2021  
04.03.2022

sn(CO)

TR(15.03.2022) 6P 3C