



W.P.No.6845 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2023

Coram:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.P.No.6845 of 2023
and
W.M.P.No.6951 and 6953 of 2023

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1. Jaishankar.J

2. M/s.J.Jaishankar Old Iron Shop,
No.41, Dhupan Kumarasamy Street,
Namakkal-637 001.

.. Petitioners

Vs.

M/s.Cholamandalam Investment and
Finance Company Ltd.,
Dare House, No.2, NSC Bose Road,
Parrys, Chennai-600 001.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records in relation to the order dated 29.11.2022 made in I.A.No.4866/2022 in SA.No.1103/2022 on the file of the Debts Recovery Tribunal, Coimbatore and quash the same and consequently grant a time period of six months to the petitioners to make the second instalment of Rs.7.50 lakhs to



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the respondent.

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For petitioner : Mr.R.Bharath Kumar

For respondents: Mr.M.Arunachalam

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to call for the records in relation to the order dated 29.11.2022 made in I.A.No.4866/2022 in SA.No.1103/2022 on the file of the Debts Recovery Tribunal, Coimbatore and quash the same and consequently grant a time period of six months to the petitioners to make the second instalment of Rs.7.50 lakhs to the respondent.

2. By-passing the appeal remedy available to the petitioners under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the Writ Petition is filed. Normally, this Court will not entertain the Writ Petition when the same is filed by-passing the appeal remedy. In this case, the petitioners stated that they are willing to pay the last instalment out of two instalments. It is represented by the learned counsel for the petitioners that out of two



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instalments, one instalment has already been paid on 27.12.2022 and the second/last instalment should have been paid on 24.01.2023. It is further stated by the learned counsel that in case of non-compliance of the order, interim order shall stand automatically vacated. In all fairness, the petitioners should have filed application before the very same Debts Recovery Tribunal (DRT), Coimbatore, seeking for extension of time for payment of the last instalment or preferred an appeal before the concerned Debts Recovery Appellate Tribunal (DRAT) as against the impugned order of the DRT. Now that the petitioners are willing to pay the amount in respect of the last instalment, as ordered by the DRT, preferably on or before 31.03.2023, to avoid further litigation for non-payment of second/last instalment, which is payable by the petitioners after hearing the learned counsel for the respondent who has vehemently opposed the Writ Petition.

3. Even though this Writ Petition is filed by-passing the alternative/appeal remedy and that the petitioners have not paid the last instalment of 50% of the amount as ordered by the DRT, to sub-serve the ends of justice, this Court directs the petitioners to pay the second/last instalment as ordered by the DRT, on or before 31.03.2023, failing which,



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the impugned order of the DRT shall stand confirmed.

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4. With the above observations, this Writ Petition is disposed of.

There shall be no order as to costs. Consequently, W.M.P.No.6953 is closed.

5. As regards W.M.P.No.6951 of 2023 filed for permitting the petitioners to join together and file a single Writ Petition, the said W.M.P. is ordered.

(S.V.N., J) (R.K.M., J)
03.03.2023

Index: Yes/no

Speaking Order: Yes/no

Neutral Citation: Yes/no

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To

The Presiding Officer, Debts Recovery Tribunal, Coimbatore.

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and

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