



W.P.Nos.6877 & 6885 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.Nos.6877 & 6885 of 2023

M.S.Suburaman, S/o.Sundarapandi
Proprietor, Hotel Sri Saravana Bhavan
S.F.No.153/4A2, NH 47 Main Road
Moongilpalayam, Vijayamangalam
Erode – 638 056

.. Petitioner in
both W.Ps.

Vs.

1. The Registrar
Debt Recovery Appellate Tribunal
Indian Bank Circle Officer, 4th Floor
55, Ethiraj Salai
Chennai 600 008.

2. The Authorised Officer
M/s. Tamilnad Mercantile Bank Ltd.
Perumanallur Branch
Opp. to State Bank of India
Perumallur 641 666.

3. Prabakaran

4. P.Arulselvam

.. Respondents in
both W.Ps.



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Prayer: Petitions filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the first respondent to place the appeal filed by the petitioner in R.A.(S.A) Diary Nos.43/2023 and 42/2023 respectively before the presiding member of the learned Debt Recovery Appellate Tribunal, Chennai Bench, challenging the order in S.A.Nos.572 of 2002 and 668 of 2021 (DRT, Coimbatore) respectively dated 05.01.2023 and consequently, direct the respondents 2 to 4 to maintain status quo and not to take any coercive steps with respect to the property in New S.F.No.153/4A2, Vijayamangalam Bye-Pass Road, Moongilpalayam village, Perundurai Taluk, Erode District comprising an extent of 32.75 cents with Hotel building constructed thereupon, until the disposal of the appeal filed by the petitioner before the first respondent.

For the Petitioner : Mrs.Chitra Sampath
Senior Counsel
For Mr.J.Hariharan
For M/s. L.V.Law Firm

For the Respondents : Mr.S.Sethuraman
for Respondent-2

No appearance -
for Respondents 3 & 4

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mrs.Chitra Sampath, learned Senior Counsel for Mr.J.Hariharan, learned counsel for the petitioner and Mr.S.Sethuraman, learned counsel for the second respondent.



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2. The petitioner had approached this Court seeking directions against the respondents 2 to 4 to maintain status quo and that the appeal bearing R.A.(S.A) Diary Nos.43/2023 and 42/2023 be taken up by the Appellate Tribunal.

3. Learned Senior Counsel for the petitioner submits that initially when the application under Section 17 was filed challenging the possession and sale notice, the petitioner deposited Rs.36.00 lakh being 50% of the amount due and payable. During the pendency of the said application, sale took place. The petitioner filed another S.A. challenging the sale.

4. Learned Senior Counsel further submits that against the judgment of the Debts Recovery Tribunal dismissing the application of the petitioner, the petitioner filed S.A. before the Debt Recovery Appellate Tribunal. The said application has not been taken up. As such, the present writ petitions are filed.

5. It is further submitted by learned Senior Counsel for the



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petitioner that the petitioner, pursuant to the orders of this Court dated 03.03.2023, deposited Rs.36.00 lakh on or about 06.03.2023. Thus, 100% amount is deposited by the petitioner.

6. According to learned counsel for the respondent bank, the sale is challenged and the property is sold for more than Rs.1.76 crore. The petitioner will have to deposit 50% of the said amount.

7. The matters are pending before the Debt Recovery Appellate Tribunal. It is for the Debt Recovery Appellate Tribunal to adjudicate the amount. It appears that the petitioner has deposited Rs.72.00 lakh in the Debt Recovery Appellate Tribunal. The sale is at Rs.1.76 crore. Even if the case of the respondent bank is accepted, the petitioner has deposited 50% of the sale consideration. That would be the sufficient deposit for the Debt Recovery Appellate Tribunal to hear the appeals.

8. We are not entering into the debate as to whether the petitioner has deposited 100% or not, as the same would be



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considered by the Debt Recovery Appellate Tribunal. The petitioner has, till now, deposited Rs.72 lakh in the Debt Recovery Appellate Tribunal. The Debt Recovery Appellate Tribunal shall register the appeal, if it otherwise complies with all other legal requirements.

9. In case the petitioner demonstrates that Rs.72.00 lakh has been deposited, then, the Debt Recovery Appellate Tribunal shall consider the same to be the sufficient amount for pre-deposit and if the appeal is otherwise in order and complies with other requirements, shall register it and hear it on its own merits.

10. With these observations, the writ petitions are disposed of. The order of status quo to continue till the Debt Recovery Appellate Tribunal hears the application for stay on its own merits. There will be no order as to costs. Consequently, W.M.P.No.6974 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

14.08.2023

Index : Yes/No
Neutral Citation : Yes/No



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