



WP No.8804 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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J.Naveed Ahmed

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Petitioner

versus

1.The Debt Recovery Tribunal
Coimbatore.

2.The Authorized Officer
Punjab national Bank
having office at
448-A, Dr. Nanjappa Road
Circle Sashttra Centre, Coimbatore- 18.

3.The Punjab National Bank
Rep by its Manager
Having Office at
1035, Cross Cut Road
Coimbatore- 641 012.

4.A.Satheesh Kumar

...

Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the 1st respondent to expeditiously dispose the Petitioners I.A.1708 of 2022 in S.A.No.435 of 2022 and I.A.No.237 of 2022 in I.A.No.3639 of 2021 in S.A.No.872 of 2021.



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For the Petitioner

:

Mr.S.Venkatesh

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ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition without approaching the Debt Recovery Appellate Tribunal and without complying with the conditional order of stay passed by the Debts Recovery Tribunal, Coimbatore, dated 24.12.2021, in I.A.No.3639 of 2021, wherein the petitioner prayed for stay of operation of the sale notice dated 06.12.2021, issued by the respondent bank, fixing 24.12.2021 as the date of auction.

2. Learned counsel for the petitioner would submit that the petitioner being the sole proprietor of M/s.Crystal Packs, borrowed a sum of Rs.38 lakh as cash credit facility from the third respondent bank, giving their property situate at S.F.No.92/1B1, Teachers Colony, Singanallur village, Coimbatore Taluk, to an extent of 5040 sq.ft. of land, along with ACC roofed building with a built-up area of 934 sq.ft., as security. The petitioner was unable to repay the loan amount due to power cut, demonetisation and other issues. Therefore, the petitioner's account was brought under non-performing asset on 18.01.2018 and notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets



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and Enforcement of Security Interest Act, 2002 (for short, the Act of 2002) was issued on 25.07.2018 and thereafter, possession notice was issued on 01.03.2019. Later, the petitioner challenged the sale notice dated 06.12.2021 issued by the respondent bank fixing the auction to be held on 24.12.2021 by filing SA No.872 of 2021 before the Debts Recovery Tribunal, Coimbatore, and also moved IA No.3639 of 2021, for stay of the operation of the sale notice.

3. Learned counsel for the petitioner would submit that when the matter was taken up on 24.12.2021, learned Debts Recovery Tribunal, has passed a conditional order directing the petitioner to deposit a sum of Rs.20 lakh to the respondent bank; out of which, a sum of Rs.10 lakh to be paid on or before 21.01.2022 and another sum of Rs.10 lakh to be paid on or before 18.02.2022. But the petitioner was unable to comply with the said order; and he has paid only a sum of Rs.2 Lakh. Therefore, he was unable to enjoy the benefit of the order of stay. In the meanwhile, the petitioner has also moved another interlocutory application for extension of time and another interlocutory application to restrain the respondent bank from handing over possession of the property.

4. We are unable to find any merits in the arguments advanced by learned counsel for the petitioner. When the petitioner was granted an order of stay with a condition that he should pay a sum of Rs.20 lakh in two instalments,



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without complying with the said condition, the petitioner cannot file second Sarfaesi Application asking for further relief. Secondly, the petitioner has to workout his remedy by filing an appeal before the Debt Recovery Appellate Tribunal against the order passed by the Debts Recovery Tribunal. The petitioner is not entitled to come directly to this Court under Article 226 of the Constitution of India, without exhausting the remedy of appeal.

5. For the reasons mentioned above, this writ petition fails and the same is dismissed. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
21.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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