



W.P.No.11728 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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1.M/s.Shri Sivaram Spinnig Mill,
rep. by its Partner K.R.Gurusamy,
No.674/1C, Kulathur Road,
Venkitapuram Post,
Coimbatore-641 062.

2.K.R.Gurusamy
3.G.Geetha

.. Petitioners

Vs

1.M/s.State Bank of India,
rep. by its Chief Manager,
Commercial Branch,
No.24, Stanes Road,
Veerappan Complex,
Tiruppur – 641 602.

2.The Authorised Officer,
M/s.State Bank of India,
Stressed Assets Management Branch,
Red Cross Building,
No.32, Monthieth Road,
Egmore, Chennai – 600 008.



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3.M.S.A.Khadar
Classic Timber,
No.280, M.T.H. Road,
Villivakkam, Chennai-600 049.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the Debts Recovery Tribunal, Coimbatore to refund the sum of Rs.62,50,000/- (Sixty two Lakhs and Fifty Thousand only) deposited into the Tribunal by this Hon'ble Court order W.P.No.26090 of 2011, dated 11.11.2011.

For the Petitioners : Mr.B.Nedunchezhiyan

For the Respondents : Mr.P.Chandrasekaran
for respondent Nos.1 and 2

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

W.M.P.No.11614 of 2023 filed to permit the petitioners to file the writ petition jointly is allowed, subject to payment of separate set of court-fee by the petitioners within two weeks from the date of receipt of a copy of this order. In default of compliance, the order passed in the writ petition shall be applicable only to the first petitioner.



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2. The petitioners have filed this writ petition seeking issuance of a writ of mandamus directing the Debts Recovery Tribunal, Coimbatore, to refund the sum of Rs.62,50,000/- (Sixty two Lakhs and Fifty Thousand only) deposited into the Tribunal by virtue of the order dated 11.11.2011 passed by this court in W.P.No.26090 of 2011.

3. Mr.B.Nedunchezhiyan, learned counsel for the petitioners, would submit that when the property of the petitioners was brought to public auction, the petitioners filed W.P.No.26090 of 2011 for issuance of a writ of declaration to declare that the tender-cum-auction sale held on 4.10.2011 by the second respondent in respect of plant and machinery installed at the factory premises of the first petitioner firm as null and void and to consequently direct the second respondent to cancel the sale effected in favour of the third respondent. It is further submitted that a Division Bench of this court, by order dated 11.11.2011, in order to protect the interest of the petitioners, directed them to deposit 25% of the amount as



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directed by the Debts Recovery Tribunal, Coimbatore. He pleaded that even after deposit of 25% of the amount as directed by the Division Bench, the property of the petitioners was sold away and, therefore, the petitioners are entitled to get refund of the amount of Rs.62,50,000/- deposited by them. As the said amount was not refunded, the petitioners have been advised to file this writ petition.

4. We do not find any merit in the aforesaid submission made by learned counsel for the petitioners. The petitioners claim that they have complied with the order dated 11.11.2011 passed by this court in W.P.No.26090 of 2011 and deposited 25% of the amount. Subsequently, the said writ petition was closed by order dated 9.1.2012 categorically recording that the amount paid by the petitioners pursuant to the order dated 11.11.2011 shall be treated as deposit. After making such deposit, the petitioners ought to have pursued the remedy before the Debts Recovery Tribunal, Coimbatore, for refund thereof. Without resorting to such measure, the petitioners after lapse of 12 years cannot now move this court seeking a direction to the Tribunal to refund the said deposit



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amount.
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5. That apart, if the property of the petitioners has been sold away and the amount deposited has not been refunded by the Debts Recovery Tribunal, Coimbatore, the petitioners can file an appeal before the Debt Recovery Appellate Tribunal. Bypassing the efficacious statutory remedy available, the petitioners cannot straightaway file a writ petition seeking invocation of the extraordinary jurisdiction under Article 226 of the Constitution of India.

For the foregoing reasons, the writ petition is dismissed. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
18.04.2023

Index : No
Neutral Citation : No
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