



W.P.No.11672 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2023

CORAM :

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

AND

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

W.P.No.11672 of 2023

Selvam

.. Petitioner

Vs

1.The Registrar,
Debt Recovery Tribunal,
Coimbatore-641 018.

2.The Authorized Officer,
Canara Bank,
Fort Main Branch,
Salem.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records of the respondent No.1 in SA Diary No.649/2023 and to quash the order passed by the respondent No.1 dated 11.4.2023 and to direct the respondent No.1 to number the appeal.



WEB COPY



W.P.No.11672 of 2023

For the Petitioner : Mr.P.Saravanan
for M/s.G.Ambika

For the Respondents : Ms.T.Hemalatha
for respondent No.2

: R1 – Tribunal

ORDER

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

The petitioner had challenged the order under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, the “Act of 2002”) before the Debts Recovery Tribunal, Coimbatore. The Debts Recovery Tribunal, Coimbatore, did not register the same on the ground that application/appeal is not presented within 45 days from the date of the order passed on 12.01.2023.

2. We have heard Mr.P.Saravanan, learned counsel for the petitioner and Ms.T.Hemalatha, learned counsel for the respondent bank.



W.P.No.11672 of 2023

WEB COPY

3. It is the contention of the petitioner that the petitioner had not appeared in the proceedings before the authority under Section 14 of the Act of 2002 and was not aware of the order passed under Section 14 of the Act of 2002. The warrant to the Advocate-Commissioner for execution was issued on 16.03.2023 and thereafter only the petitioner got the knowledge. The petitioner has filed an application/appeal on 1.4.2023. From the date of knowledge of the order, the proceedings are within the limitation.

4. We do not find all these facts having been considered by the Debts Recovery Tribunal while passing the impugned order. Whether the petitioner would be entitled for the benefit of the date of knowledge of the order for the purpose of limitation was required to be considered by the Debts Recovery Tribunal. Moreover, the respondent bank has also not placed before us or before the Debts Recovery Tribunal the fact as to whether the petitioner had appeared in the proceedings under Section 14 of the Act of 2002 and/or the order passed under Section 14 was served to the petitioner earlier. The said facts are also required to be considered by the Debts Recovery Tribunal.



W.P.No.11672 of 2023

WEB COPY

5. In the light of that, we set aside the impugned order passed by the Debts Recovery Tribunal, Coimbatore and direct the Debts Recovery Tribunal, Coimbatore, to re-consider the case of the petitioner of having filed the appeal/application under Section 17 of the Act of 2022 challenging the order under Section 14 within the limitation on its own merits and in accordance with law.

6. With these observations, the writ petition stands disposed of.
There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

03.08.2023

Index : Yes/No
Neutral Citation : Yes/No
bbr

To:

1.The Registrar,
Debt Recovery Tribunal,
Coimbatore-641 018.

2.The Authorized Officer,
Canara Bank,
Fort Main Branch,
Salem.



WEB COPY



W.P.No.11672 of 2023

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKE SAVALU, J.

bbr

W.P.No.11672 of 2023

03.08.2023