



C.R.P.No.2618 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM :

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

AND

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

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- 1 M/s.Mahan Textiles Process India (P) Ltd
Rep. by its Director Mr.A.Mahalingam
4(1)4 Kangayam Main Road
Tirupur-641 604.
- 2 A.Mahalingam
Managing Director of
M/s.Mahan Textiles Process India (P) Ltd.
Door No.7, Karuvapalyam Extension
2nd Street, Tirupur-641 604.
- 3 M.Kalaiselvi ... Petitioners

Vs

- 1 The Authorised Officer
The Tamilnadu Industrial Investment
Corporation (TIIC) Ltd.
Tirupur Branch
Kumaran Shopping Complex, II Floor
Near Railway Station, Kumaran Road
Tirupur – 641 601.



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- 2 Small Industries Development Bank of India
Represented by its Branch Manager
1st Floor, K.S.No, Complex
No.74 J. G.Nagar, 60 Feet Road
Tirupur-641 602.
- 3 The Authorised Officer and Chief Manager
India SME Asset Reconstruction Company Ltd (ISARC)
1004, 10th Floor, Naman Center
Plot No.C-31, "G" Block
Bandra Kurla Complex
Bandra (E) Mumbai-400 051.
- 4 R.Nagaraj ... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the order dated 29.06.2022 passed in S.A.No.73 of 2020 on the file of the Debts Recovery Tribunal, Coimbatore.

For the Petitioners : Mr.N.Somasundaar

ORDER

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

We have heard Mr.N.Somasundaar, learned counsel for the petitioners.

2. The petitioners are challenging Clauses (i) and (iii) of the



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operative order passed by the Debts Recovery Tribunal in an application filed by the petitioners under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The Presiding Officer of the Debts Recovery of Tribunal has allowed the application of the petitioners and set aside the sale, however imposed some conditions. The said conditions are assailed.

3. Learned counsel for the petitioners submits that once the Debts Recovery Tribunal has come to the conclusion that the land in question is an agricultural land and, as such, in view of Section 31(i) of the Act, action could not have been taken under the provisions of the Act of 2002, the conditions ought not to have been imposed. The said conditions are onerous. In view of that, the petitioners need not avail the remedy of appeal and can challenge the same under Article 227 of the Constitution of India. Learned counsel relies on a judgment of the Division Bench of this court in the case of *Sekar Stores Home Mart v. The Authorised Officer, Pridhvi Asset Reconstruction and Securitisation Company Limited*,



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(2017) 1 MLJ 809.

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4. Against the judgment delivered by the Debts Recovery Tribunal, the petitioners have a remedy of a substantive appeal before the Debt Recovery Appellate Tribunal. All these aspects, as to the liability of the petitioners to pay interest amount to the auction purchaser once the sale has been set aside, can be agitated before the Appellate Tribunal.

5. The reliance placed on the judgment of the Division Bench in the case of *Sekar Stores Home Mart*, supra, would not enure to the benefit of the petitioners. In the said judgment, when the civil revision petition was entertained, there was no Presiding Officer available with the Appellate Tribunal and further the order was passed without adhering to the principles of natural justice.

6. In the present matter, it is not the case that the Presiding Officer of the Appellate Tribunal is not available. After hearing the parties, the Debts Recovery Tribunal has allowed the application



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filed by the petitioners, however with certain conditions. The petitioners are only aggrieved by the conditions imposed. The appellate remedy is a substantive remedy available to the petitioners. The petitioners can raise all the grounds before the Appellate Tribunal.

In the light of that, we dispose of the civil revision petition with liberty to the petitioners to avail the alternate remedy. In that event, all contentions are kept open. It is for the petitioners to seek the benefit of Section 14 of the Limitation Act, 1963, as may be permissible under law. There will be no order as to costs.

(S.V.G., C.J.)

(P.D.A., J.)

28.07.2023

Index : Yes/No
Neutral Citation : Yes/No
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