



WP No.21613 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2023

CORAM :

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

AND

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

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K.Murugesan : Petitioner

versus

- 1.The Presiding Officer,
Debts Recovery Tribunal,
Coimbatore
- 2.The District Collector,
Tiruppur District
- 3.The Revenue Divisional Officer/
Sub Divisional Magistrate,
Tiruppur District.
- 4.The Tashidar,
Palladam, Tiruppur District.
- 5.M/s.State Bank of India,
rep. By its Authorised Officer,
Stressed Assets Recovery Branch,
No.377/1, Dr.Nanjappa Road,
behind N.S.Palaniappa Nursing Home,
Coimbatore

6.M.Loganathan : Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for

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issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent order in SA No.636 of 2021 dated 30.06.2023 and quash the same and consequently direct the 1st respondent to take into consideration that the land in question is an agricultural land under Section 31(i) of SARFAESI Act, which exempts from the SARFAESI proceedings and speedy dispose of the applications in SA No.199 of 2014, SA No.636 of 2021 and SA No.175 of 2022 on the file of 1st respondent within a time frame.

For the Petitioner : Ms.A.Pramila

ORDER

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

We have heard Ms.A.Pramila, learned counsel for the petitioner.

2. The petitioner is challenging the interim order passed by the Debts Recovery Tribunal, Coimbatore, wherein the petitioner is directed to deposit an amount of Rs.1,50,00,000/- (Rupees One Crore and Fifty Lakhs only).

3. The petitioner had filed an application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short, the Act of 2002) purportedly challenging the order passed under Section 14 the Act of 2002.



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4. The petitioner had initially challenged the sale certificate, by approaching the Debts Recovery Tribunal, Coimbatore. The Debts Recovery Tribunal directed the petitioner to deposit a sum of Rs.1,34,00,000/- (Rupees One Crore and Thirty Four Lakh only), in two installments. Aggrieved by the said order, the petitioner approached the Debt Recovery Appellate Tribunal, Chennai. The Appellate Tribunal passed an interim order on condition that the petitioner deposits an amount of Rs.60,63,791/- (Rupees Sixty Lakh Sixty Three Thousand and Seven Hundred Ninety One only). According to the learned counsel for the petitioner, the said amount is deposited. Now, order under Section 14 of the Act of 2002 is passed. The petitioner sought stay of the same. The Debts Recovery Tribunal directed the petitioner to deposit Rs.1,50,00,000/- (Rupees One Crore and Fifty Lakhs only) with the respondent bank within three weeks i.e. on or before 21.07.2023.

5. Learned counsel for the petitioner submits that the property in question is an agricultural land and as such, the provisions of the Act of 2002 would not be attracted. For that purpose, the learned counsel relies on the judgment of the Apex Court in the case of



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Indian Bank and another vs. K.Pappireddiyar, 2019(6) CTC 332.

Further reliance is placed on the judgment of the Apex Court in ***K.Sreedhar vs. M/s.Raus Constructions Pvt. Ltd., AIR 2023 SC 306.***

6. According to learned counsel, even the revenue records show that the property in question is an agricultural land. The petitioner is using the said land for agricultural purposes and is cultivating the crops. Photographs to that effect are also placed on record.

7. The petitioner has already challenged the sale certificate proceedings before the Debts Recovery Tribunal, Coimbatore. The same are pending and interim orders are passed therein.

8. Now, it appears that the petitioner is challenging the action of taking possession. The Debts Recovery Tribunal is seized with the matter; interim order is passed directing the petitioner to deposit the amount as a condition for stay.

9. It is not disputed that if the petitioner is aggrieved with the said order, the petitioner has a remedy before the Debt Recovery



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Appellate Tribunal. The Debt Recovery Appellate Tribunal would be in a better position to arrive at the disputed question of fact as to whether the property in question is an agricultural land or is used for other purpose also. The sale notice, for the sale of immovable property as issued, depicts that there is a residential building with poultry sheds in the land in question; whereas, according to the petitioner, the revenue record shows that the land is an agricultural land. The said disputed questions of fact can be advantageously gone into by the Debt Recovery Appellate Tribunal.

10. In the case of ***Indian Bank vs. Pappireddiyar (supra)***, the matter had travelled to the High Court after the order of the Debts Recovery Tribunal and Debt Recovery Appellate Tribunal. The Appellate Tribunal had reversed the decision of the Debts Recovery Tribunal. When the matter came to the High Court, the High Court did not discuss as to whether the property is an agricultural land or otherwise. In the present case, the petitioner has not yet invoked the jurisdiction of the Debts Recovery Tribunal. The same is an efficacious remedy available to the petitioner.

11. In case of ***K.Sreedhar vs. Raus Constructions (supra)***



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the Apex Court held that in view of the appellate remedy available, the High Court ought not to have entertained the writ petition against the order of the Debts Recovery Tribunal. As observed supra, whether the land is an agricultural land or was used for residential purpose along with poultry sheds, are all disputed questions of fact.

12. In light of the above and in view of the fact that alternate remedy is available to the petitioner, we are not inclined to entertain the writ petition. The writ petition, as such, is disposed of. There will be no order as to costs. Consequently, WMP Nos.20985 and 20986 of 2023 are closed.

13. The petitioner may avail the alternate remedy as may be permissible under law.

14. In case the petitioner requests the Debts Recovery Tribunal, Coimbatore, to decide the application expeditiously, the Debts Recovery Tribunal, Coimbatore, may consider the said request.

(S.V.G., CJ.)

(P.D.A., J.)

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