



W.P.No.25235 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2023

CORAM :

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

AND

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

W.P.No.25235 of 2023

Oren Mud Chemicals Pulverising Private Limited
Rep. by its Director Rizwan Ahmed
Having registered office at
28/2B, Saravana Street, T.Nagar
Chennai 600 017.

.. Petitioner

Vs.

1. The Registrar
Debts Recovery Tribunal III
Shastri Bhavan
Chennai 600 006.

2. ICICI Bank Limited
3rd Floor, West Wing #24
South Phase, Ambattur
Chennai 600 058
Tamil Nadu.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus to call for the records pertaining to S.I.A.No.672 of 2023 in S.A.No.265 of 2023 on the file



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of the Debts Recovery Tribunal III, Chennai dated 30.05.2023, quash the same and consequently, direct the Debts Recovery Tribunal III, Chennai to hear and dispose the S.I.A.No.672 of 2023 in S.A.No.265 of 2023 after providing due opportunity of hearing and pass consequential orders.

For the Petitioner : Mr.Tarun Rao Kallakuru

For the Respondents : Mr.Nithyaesh Natraj
for Respondent-2

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.Tarun Rao Kallakuru, learned counsel for the petitioner and Mr.Nithyaesh Natraj, learned counsel for the second respondent.

2. The petitioner has approached this Court against an order dated 30.05.2023. Under the said order, as the petitioner did not deposit any amount, the S.I.As are dismissed with cost of Rs.5,000/- and on the main S.A., notices are issued.



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3. The bone of contention is that no provision exists for a pre-deposit of the amount so as to hear the stay application.

4. No provision could be pointed out by learned counsel for the bank of a pre-deposit for hearing the stay application in a Securitisation Application filed under Section 17 of the SARFAESI Act.

5. No doubt, the Presiding Officer of the Debts Recovery Tribunal, after hearing the stay application on merits, can pass an order of stay upon condition of deposit of amount. But, can not refuse to hear the S.I.A. on the ground that memo is not filed to show the bona fide of remitting the amount to the credit of the loan account.

6. Further, the impugned order is passed without adhering to the principles of natural justice.

7. Reference has been made to the judgment of the Full Bench of this Court in *M/s. Lakshmi Shankar Mills (P) Ltd. v. The Authorised Officer/Chief Manager, Indian Bank* [2008 (2) LW 381].



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8. In the light of the above, the impugned order is quashed and set aside and the parties are relegated before the Debts Recovery Tribunal III. The Debts Recovery Tribunal shall hear the stay application filed by the petitioner on its own merits.

9. We are informed that the date fixed before the Tribunal is 19.09.2023. The parties may appear on the said date.

10. The writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.24640, 24641 & 24694 of 2023 are closed.

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

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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