



WP No.25112 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM

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

AND

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

WP No.25112 of 2023
and WMP Nos.24542 and 24544 of 2023

CFM Asset Reconstruction Private Ltd.,
Rep. by its Authorized Officer,
Having its branch office at Hallmark
Towers, 4th Floor, 550, TTK Road,
Alwarpet, Chennai 600 018.

... Petitioner

-VS-

1. The Presiding Officer,
Debts Recovery Tribunal-I at Chennai,
Shastri Bhavan, Subba Road Avenue,
Nungambakkam, Chennai 600 008.
2. M/s.Suganthi Educational Trust,
Rep. by its Managing Trustee,
Dr.Sujatha Balasubramanian,
Having its administrative office at
No.15, Corporation Colony,
Kodambakkam, Chennai 600 024.
3. Dr.Sujatha Balasubramanian
4. C.Balasubramaniam



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5. Karur Vysya Bank Ltd.,
Rep. by its Authorized Officer,
Corporate Business Unit, No.1, 1st Floor,
Padamavathiar Road, Gopalapuram,
Chennai 600 018.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent Debts Recovery Tribunal-I at Chennai in order dated 10.08.2023 in I.A.No.155 of 2023 in S.A.No.15 of 2023, quash the same.

For the Petitioner : Mr.Srinath Sridevan
Senior Counsel
for Ms.Aparajitha Vishwanath

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Srinath Sridevan, learned Senior Counsel for the petitioner.

2. The petitioner is challenging the order passed by the Debts Recovery Tribunal granting stay to the sale notification dated 22.07.2023. The petitioner claims to be a secured creditor.



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3. The learned Senior Advocate for the petitioner submits that the order impugned is passed without application of mind. The property under sale is immovable property, that is, the land, whereas the DRT, on the premise that valuation of the movables is not properly done, has stayed the auction sale on condition of deposit of 10% of the amount by 11.08.2023 and another 10% within thirty days. The learned Senior Advocate submits that because of such an order passed, the sale is frustrated. The earlier auction sale notice was also challenged on the same ground and similar order was passed. The debtors were directed to deposit the amount in earlier round also. They did not deposit the said amount. This aspect is also not considered by the DRT while passing the impugned order.

4. We may understand the predicament of the petitioner. However, the said order can be assailed before the Debt Recovery Appellate Tribunal and all these grounds may be agitated before the appellate authority. No doubt, the Debts Recovery Tribunal was required to consider the earlier order passed and the non-compliance of the earlier order by the debtors. All these aspects can be brought to the notice of the Debt Recovery Appellate Tribunal by the



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petitioner.

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5. As an efficacious alternate remedy is available, we are not inclined to entertain the writ petition.

The writ petition is disposed of with liberty to the petitioner to avail the alternate remedy. In that event, all the contentions are kept open. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.V.G., CJ.)

(P.D.A., J.)

25.08.2023

Index : Yes/No
Neutral Citation : Yes/No
sra

To

1. The Presiding Officer,
Debts Recovery Tribunal-I at Chennai,
Shastri Bhavan, Subba Road Avenue,
Nungambakkam, Chennai 600 008.



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

(sra)

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