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CRP No. 4353 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

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State Bank of India,
rep. by Chief Manager, RACPC Tambaram,
No.388, Velachery Main Road,
Satheesh Paradise, first floor, Selaiyur,
Chennai 600 074.

... Petitioner

Vs.

1. Mrs. R.K.Shalini

2. Mr.T.N.Ashwin

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Debt Recovery Tribunal-3, Chennai, directing to number the MA Diary No.6492 of 2023 in O.A.SR No.8618 of 2022 and to dispose the same on merits.

For petitioner : Mr.S.Rajesh



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ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Civil Revision Petition has been filed to direct the Debt Recovery Tribunal-3, Chennai, to number the MA Diary No.6492 of 2023 in O.A.SR No.8618 of 2022 and to dispose the same on merits.

2. The brief facts leading to the filing of the Civil Revision Petition is as follows.

The respondents had obtained housing loan from the petitioner bank and thereafter, committed default in repayment of loan amount, which has become non performing asset (NPA). The petitioner had filed Original Application in OA.SR No.8618/2002 before the DRT through e-filing, by making full payment of court fee, to recover the amount from the respondents. Due to viral fever, the counsel for the petitioner had not filed the hard copy, within 7 days from the date of e-filing, and there occurred a delay of 20 days. After recovery from the illness, the counsel had filed the hard copy, but, it was returned by the Registrar that the same has not been furnished within 7 days. Therefore, the counsel had filed a petition to



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condone the delay of 20 days in filing the hard copy, however, it was not numbered and returned, since there is no provision in the Act to entertain such application. Against which, this civil revision petition has been filed.

2. The learned counsel for the petitioner submitted that, as per Section 19 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993, the petitioner bank has made the original application before the Debt Recovery Tribunal, to recover the amount from the respondents, within a time, through e-filing, but the hard copy was not filed within 7 days.

2.2. The learned counsel for the petitioner further submitted that as per Rule 4 (2) of the ***Debts Recovery Tribunals and Debts Recovery Appellate Tribunals Electronic Filing Rules, 2020***, “ *After e-filing, the applicant shall file a hard copy of the said pleading, along with a copy of the acknowledgment for e-filing within seven working days of the day of e-filing in person or by his agent or by duly authorized legal practitioner before the Registry of the Tribunal* ”. However, there is no bar either under the parent Act or under the said Rules to entertain the pleadings filed after a



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period of 7 days from the date of e-filing.

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2.3. He also submitted that when the rule is silent about the limitation, then, the general law would be applicable and hence, the petition to condone the delay, filed under Section 5 of the Limitation Act by the petitioner, has to be numbered and placed before the officer to hear the same. But, without placing the papers before the Presiding Officer, it was returned, as if there is no provision to entertain such application.

2.4. The learned counsel for the petitioner has relied upon the decision of the Division Bench of this Court in CRP No.4167 of 2023, which is similar in nature and submitted that, in the above said order, this Court has directed the Registrar to place the matter before the Presiding Officer of the Debt Recovery Tribunal, so as to enable to the petitioner to make his submission before the Presiding Officer *qua*, the period of limitation. Therefore, he seeks to direct the Tribunal to number the condone delay petition and to dispose the same.



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3. Heard the learned counsel for the petitioner and we have perused the materials on record.

4. A perusal of the records shows that, the petitioner has filed the original application in OA SR.8618 of 2022 through e-filing, to recover the amount from the respondents, within the limitation period. However, the hard copy was not filed within 7 days, as per Rule 4 (2) of the ***Debts Recovery Tribunals and Debts Recovery Appellate Tribunals Electronic Filing Rules, 2020*** and for the same, the DRT has not entertained the original application. Further, the petitioner has filed an application in MA Diary No.6492/2023, to condone the delay, explaining the reasons for such delay, and it was also rejected by the Registrar, as there is no provision to entertain such application. The issue as to whether the application for condoning the delay, is maintainable or not, ought to have been decided only by the Presiding Officer of the DRT. But, without resorting such practice, the Registrar of the DRT has simply returned the papers, as if there is no provision to entertain such application, which is not correct. Therefore, we inclined to dispose the civil revision petition.



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5. Accordingly,

i) the impugned order passed by the Registrar is set aside.

ii) The petitioner is directed to re-present the returned papers of O.A.SR No.8618 of 2022 along with the explanation for condoning the delay, within one week from the date of receipt of the copy of the order.

ii) On such receipt of the papers re-presented, the Registrar shall place the same before the Presiding Officer, immediately, without any delay, for deciding the matter with regard to the period of limitation.

iii) We make it clear that the application in MA Diary No.6492/2023, shall be numbered, if it is otherwise in order.

6. With the above directions, this civil revision petition is disposed of. No costs.

(D.K.K.J.)

(P.D.B.J.)

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To
The Registrar, Debt Recovery Tribunal-3, Chennai,



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