



W.P.No.31140 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.31140 of 2023

K.Paramasivam

.. Petitioner

Vs.

1. The Authorised Officer
State Bank of India
Stressed Assets Management Branch
1112, Raja Plaza, Avinashi Road
Coimbatore – 641 037.
2. State Bank of India
Rep. by its Branch Manager
Commercial Branch
No.45, Sathy Road
Erode – 638 003.
3. The Liquidator
Shri.R.Raghavendran
M/s.Sri Maharaja Oil Imports
and Exports India (P) Ltd.
Flat No.3, Dhruvatara Apartments
No.241, Dr.Rajendra Prasad Road
Tatabad, Coimbatore – 641 012.



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4. The Registrar

The Debts Recovery Tribunal, Coimbatore

2nd & 3rd Floors, Jawan's Bhavan

27, T.B.Road, Coimbatore 641 018.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records of the order passed by the fourth respondent in S.A.No.506 of 2018 dated 29.09.2023 and quash the same as illegal and direct the DRT to hear the matter on merits.

For the Petitioner : Mr.P.J.Rishikesh

For the Respondents : Mr.M.L.Ganesh
for R1 and R2

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.P.J.Rishikesh, learned counsel for the petitioner and Mr.M.L.Ganesh, learned counsel for respondents 1 and 2.

2. The petitioner is challenging the order dismissing the Securitisation Application as infructuous.

3. Learned counsel for the petitioner submits that the issue of undervaluation ought to have been dealt with by the Debts Recovery



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Tribunal. Other relief was also claimed with regard to encumbrance.

The same was also not considered by the Debts Recovery Tribunal and instead, on the ground that the application has become infructuous, saddled the petitioner with cost of Rs.25,000/- (Rupees Twenty Five Thousand Only), which is illegal.

4. The Presiding Officer, Debts Recovery Tribunal, it appears, has rejected the Securitisation Application only on the ground that the applicant is challenging the sale notice of the year 2018. No sale has taken place pursuant to the notice and as such, the application has become infructuous.

5. In fact, other prayers were also made in the application, which naturally could have been considered by the Tribunal instead of disposing of the application as infructuous and imposing cost upon the petitioner.

6. Learned counsel for the Bank submits that the Bank would issue fresh sale notice.



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7. In light of the above, we pass the following orders:

(i) It will be open for the petitioner to assail the fresh sale notice, if issued, in accordance with law. In that event, all the contentions raised and the prayers made in the application are kept open;

(ii) The petitioner would be entitled to agitate the same afresh in a fresh Securitisation Application; and

(iii) The order imposing cost of Rs.25,000/- (Rupees Twenty Five Thousand Only) upon the petitioner is set aside.

8. In view of the aforesaid, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.No.30773 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

31.10.2023

Index : Yes/No
Neutral Citation : Yes/No

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To

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THE HON'BLE CHIEF JUSTICE
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(drm)

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