



W.P(MD)Nos.5886, 5889, 5890 &5891 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P(MD)Nos.5886, 5889, 5890 & 5891 of 2020

S.Ayyamani

... Petitioner

Vs.

1.The Registrar,
Debt Recovery Appellate Tribunal
Chennai.

2.Indian Bank,
Having its Head Officer at Chennai,
and one of its Branches at
Kadayanallur Taluk,
Tirunelveli District,
Rep. through its AGM,
Circle Office, Tirunelveli,
Now residing at,
Kadayanallur Taluk,
Tenkasi District.

... Respondents

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the first respondent order dated 03.11.2015 in M.A.Nos.107, 108, 109 & 110 of 2013 against



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I.A.Nos.84, 85, 86 and 445 of 2010 in O.A.No.145 of 2009 and quash the same and consequently directing the first respondent to grant opportunity to raise/canvass all the points.

For Petitioner : Mr.S.Gogul Raj

For R-1 : No Appearance

For R-2 : Mr.R.Pandivel

COMMON ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Heard the learned counsel on either side.

2. The present writ petitions are filed against the order passed by the Debts Recovery Appellate Tribunal dismissing the appeals filed by the present petitioner in default.

3. The learned Advocate for the petitioner submits that on the date on which the orders dismissing the appeals were passed, the learned Advocate for the petitioner was held up in the Court at Madurai.



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4. The learned counsel for the petitioner further submits that it was because of the genuine reason, the learned Advocate for the petitioner could not make it to the Debts Recovery Appellate Tribunal.

5. The learned Advocate for the bank stoutly defends the order passed by the Debts Recovery Appellate Tribunal.

6. It is trite that for the fault of an Advocate, the litigant should suffer. At the same time, it needs to be considered that the proceedings are the one filed by the bank for recovery of the amount that is the public money.

7. We are told that the order of injunction and attachment in favour of the bank are in force. In view of that, the petitioner would not gain by delay.

8. Considering the personal reason given of the learned Advocate for the petitioner, we are inclined to exercise the Writ jurisdiction under Article 226 of the Constitution of India and grant one more opportunity to the petitioner. However, the petitioner also deserves to be mulct with costs for the delay.



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9. In light of that, we are inclined to pass the following order:

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(i) The impugned orders dismissing the appeals for non-appearance of the Advocate are set aside and the appeals are restored to its original position on condition that the petitioner deposits Rs.25,000/-(Rupees Twenty Five Thousand Only) in each case on or before 02.01.2024 with the Debts Recovery Appellate Tribunal.

(ii) The parties shall appear before the Debts Recovery Appellate Tribunal on 02.01.2024.

(iii) In case the costs as directed above is not deposited by the petitioner, the appeals before the Debts Recovery Appellate Tribunal shall stand dismissed.

(iv) In case the costs as directed above is deposited by the petitioner, the Debts Recovery Appellate Tribunal, may consider the appeals on its own merits.

(v) However, it is made clear that the orders of injunction and the attachment of the property and all the



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interim orders that are passed by the Debts Recovery Tribunal shall remain in force until further orders are passed by the Debts Recovery Tribunal or Debts Recovery Appellate Tribunal as the case may be.

The Writ Petitions are accordingly disposed of. No Costs.

[S.V.G., C.J.]

[L.V.G., J.]

30.11.2023

Index : Yes / No
Neutral Citation : Yes / No

PM

To:

The Registrar,
Debt Recovery Appellate Tribunal
Chennai.



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THE HONOURABLE CHIEF JUSTICE
and
L.VICTORIA GOWRI, J.

PM

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