



W.P.(MD) No.5632 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

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1.S.Ramuthai

2.M.Seenivasan

... Petitioners

-VS-

1.Tamilnad Mercantile Bank
rep.by its Authorized Officer
Madurai Main Branch
51, East Avanai Moola Street
Madurai-625 001

2.Tamilnad Mercantile Bank
rep.by its Recovery Officer
Madurai Main Branch
51, East Avanai Moola Street
Madurai-625 001

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed in I.A.No.93 of 2023 in S.A.SR.No.1660 of 2022, on



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the file of the Debts Recovery Tribunal, Madurai and quash the same as illegal and consequently direct the Debts Recovery Tribunal, Madurai, to restore the main case to file and decide the case on merits, after affording sufficient opportunity to the parties concerned within the time stipulated by this Court.

For Petitioners : Mr.R.Aravindan

For Respondents : Mr.T.Thevan

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Mr.T.Thevan, learned counsel, takes notice for the respondent – Bank.

2. A perusal of the impugned order of the Debts Recovery Tribunal, Madurai, demonstrates that the Tribunal is under the impression that when this Court directs disposal of a matter on a particular date, whatever be the mode of disposal, the same cannot be reversed. We do not think that such view is appropriate, particularly, when the Debts Recovery Tribunal is saddled with responsibilities of dealing with huge claims.



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3. In **Collector, Land Acquisition, Anantnag and another vs.**

Katiji and others, reported in **(1987) 2 SCC 107**, the Honourable Supreme Court, while dealing with the power of the High Court to condone delay, observed as follows:

“4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

...

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

4. In **Chinnamarkathian alias Muthu Gounder and another vs. Ayyavoo alias Periana Gounder and others**, reported in **(1982) 1 SCC 159**, the Honourable Supreme Court, while deciding the power of the Court to extend the time for performance of certain directions of the Court, observed as follows:

“The principle of equity is that when some circumstances are to be taken into account for fixing a



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length of time within which a certain action is to be taken, the court retains to itself the jurisdiction to re-examine the alteration or modification of circumstances which may necessitate extension of time. If the court by its own act denies itself the jurisdiction to do so, it would be denying to itself the jurisdiction which in the absence of a negative provision, it undoubtedly enjoys.”

5. The law is, therefore, settled that the Court should retain the power to undo the consequences of its own actions. Therefore, the Debts Recovery Tribunal, Madurai, was not right in concluding that it has no power to recall the orders passed.

6. Hence, we are of the view that the impugned order of the Debts Recovery Tribunal, Madurai, cannot stand judicial scrutiny and the same is set aside. The application in I.A.No.93 of 2023 in S.A.SR.No.1660 of 2022 is allowed. S.A.SR.No.1660 of 2022 will stand restored. The Debts Recovery Tribunal, Madurai, will dispose of S.A.SR.No.1660 of 2022, in accordance with law. The petitioner shall cooperate with the Debts Recovery Tribunal for disposal of S.A.SR.No.1660 of 2022 expeditiously.



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7. Accordingly, the writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes / No
Index : Yes / No
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