



W.P(MD)No.16569 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P(MD)No.16569 of 2014

V.S.Chandrasekaran

... Petitioner

vs.

1.The Authorized Officer,
Indian SME Asset Reconstructions Company Limited,
MSME Development Centre,
Plot No.C-11, 'G' Block,
Bandra Kurla Complex, Banda (East),
Mumbai – 400 051.

2.G.Mohan

3.M/s.Axis Bank Limited,
Represented by its Deputy vice President & Head
Southern Recovery Cell,
2nd Floor, Karumuthu Nilayam,
No.192, Anna Salai, Chennai – 600 002.

4.The Registrar,
Debts Recovery Tribunal,
Madurai, Melur Road,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus, to call for the

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records pertaining to the impugned order dated 02.09.2014 passed in I.A.No.1788 of 2013 in S.A.SR.No.8147 of 2013, on the file of the fourth respondent herein to quash the same and consequently direct the Debts Recovery Tribunal, Madurai to entertain S.A.SR.No.8147 of 2013 filed by the petitioner by numbering the same and to decide the same on merits.

For Petitioner	: Mr.E.Om Prakash Senior Counsel
For R – 1	: Mr.R.Pandivel
For R – 2	: Mr.S.Srinivasa Ragavan for Mr.D.Prabhakar
For R – 3	: Mr.Pala Ramasamy
For R – 4	: No appearance

ORDER

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

The prayer in this Writ Petition is seeking for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order, dated 02.09.2014 passed in I.A.No.1788 of 2013 in S.A.SR.No.8147 of 2013, on the file of the fourth respondent and consequently, to direct the Debts Recovery Tribunal, Madurai to entertain S.A.SR.No.8147 of 2013 filed by the petitioner by numbering the same and to decide the same on merits.



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2.The learned senior counsel appearing for the petitioner submitted that the first respondent issued an auction sale notice, dated 05.07.2013 and pursuant thereto, auction said to have been conducted on 08.08.2013 and the sale certificate was also issued in favour of the second respondent on 08.10.2013. Challenging the same, the petitioner preferred a petition in I.A.No.1588 of 2013 seeking to condone the delay of 132 days in filing the said S.A, which was taken on file in S.A.SR.No.8147 of 2013. The Debts Recovery Tribunal, Madurai, by order dated 02.09.2014, dismissed the said petition at the SR stage. Challenging the said impugned order, dated 02.09.2014, the petitioner has filed the present Writ Petition.

3.The learned senior counsel appearing for the petitioner further submitted that the Tribunal has not considered the case of the petitioner in a proper perspective by excluding the period when the Writ Petition in W.P(MD)No.20114 of 2013 was pending before this Court. Further, the learned senior counsel submitted that the Debts Recovery Tribunal has sufficient power to condone the delay and therefore, the impugned order, dated 02.09.2014 is liable to be set aside.



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4.The learned counsel appearing for the second respondent strongly objected and submitted that when there is an alternative remedy available to the petitioner under Section 18 of the SARFAESI Act, the petitioner can approach the Debts Recovery Appellate Tribunal, Madurai, to seek such a remedy.

5.Considering the submissions made on either side, liberty is granted to the petitioner to approach the Debts Recovery Appellate Tribunal by filing an appeal under Section 18 of the SARFAESI Act and the petitioner is directed to file an appeal before the Debts Recovery Appellate Tribunal within a period of two weeks from the date of receipt of a copy of this order.

6.With the above liberty and direction, this Writ Petition is disposed of. No costs.

[D.K.K.,J.] [L.V.G.,J.]
15.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

Note:- Registry is directed to return the original copy of the impugned order dated 02.09.2014, passed in I.A.No.1788 of 2013 in S.A.SR.No.8147 of 2013 to the petitioner, after obtaining photostat copy of the same.

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To

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Indian SME Asset Reconstructions Company Limited,
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- 3.The Registrar,
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D. KRISHNAKUMAR,J.
and
L.VICTORIA GOWRI,J.

ps

ORDER MADE IN
W.P(MD)No.16569 of 2014

DATED : 15.02.2023