



W.P(MD)No.26941 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN**

W.P(MD)No.26941 of 2019

and

W.M.P(MD)No.23290 of 2019

S.Murugesan

... Petitioner

Vs.

- 1.The Chairperson,
Debt Recovery Appellate Tribunal,
Chennai.
- 2.The Presiding Officer,
Debt Recovery Tribunal,
Madurai.
- 3.The District Collector,
Tirunelveli District, Tirunelveli.
- 4.The Revenue Divisional Officer,
Tenkasi, Tirunelveli District.
- 5.The Authorized Officer,
Canara Bank,
Regional Office,
No.10-B/1, Trivandrum Road,
Tirunelveli.
- 6.The Branch Manager,
Canara Bank,
Kadayanallur Branch,
Krishnapuram, Tirunelveli District.



W.P(MD)No.26941 of 2019

7.A.Thangadurai
8.S.S.Abdul Kaboor

... Respondents

WEB COPY

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 by the first respondent dated 20.11.2019 in I.A.No.147 of 2019 in AIR(SR)No.18 of 2019 and quash the same and consequently, direct the first respondent to take the appeal in AIR(SR) No.18 of 2019 on file and decide the same on merits and in accordance with law within the time frame fixed by this Court.

For Petitioner : Mr.V.Meenakshi Sundaram

For RR1,7 & 8 : No Appearance

For R3 & R4 : Mr.S.P.Maharajan,
Special Government Pleader

For R5 & R6 : Mr.R.Pandivel

ORDER

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

Heard the learned counsel appearing on either side.



W.P(MD)No.26941 of 2019

2. The order of the Debts Recovery Appellate Tribunal directing the petitioner to deposit Rs.6,60,000/- for entertaining the appeal is assailed.

3. The contention of the learned counsel for the petitioner is that the petitioner had challenged the order passed by the Debts Recovery Tribunal in an interim application seeking appointment of an Advocate Commissioner and for measurement of the property through Surveyor. The said application is rejected. The appeal is only in respect of the same. In that case, the pre-deposit of the entire amount was unwarranted. Rs.6,60,000/- is the amount of sale.

4. The learned counsel for the bank submits that the petitioner is trying to protract the matter. In fact, the matter was fixed for orders before the Debts Recovery Tribunal in the main proceedings. The Debts Recovery Appellate Tribunal has passed an equitable order.

5. It appears that the possession was sought pursuant to an order passed by the bank under Section 14 of the SARFAESI Act, 2002. The same is challenged by the petitioner before the Debts Recovery Tribunal by filing a Securitization Application. In the said Securitization Application, an interim application was filed for



W.P(MD)No.26941 of 2019

appointment of Advocate Commissioner. The same was rejected.

Aggrieved by the same, the appeal was filed before the Debts Recovery Appellate Tribunal. In the said appeal, the order has been passed to deposit Rs.6,60,000/-.

6. It appears that the petitioner has not deposited any amount till date. Under Section 18 of the SARFAESI Act, 2002, the discretion exists with the Debts Recovery Appellate Tribunal, to direct deposit even to the extent of 25% of the amount.

7. Considering the above, we pass the following order:

(i) The order of the Debts Recovery Appellate Tribunal, Chennai, dated 20.11.2019, is modified to the effect that the petitioner shall deposit Rs.2,00,000/- (Rupees Two Lakhs Only) with the Debts Recovery Appellate Tribunal, Chennai, within a period of four weeks from today; and

(ii) If the amount as directed above is deposited by the petitioner, then the appeal filed by the petitioner before the Debts Recovery Appellate Tribunal, shall be



W.P(MD)No.26941 of 2019

heard on merits; and

WEB COPY

(iii) In case the petitioner fails to deposit the amount as directed above, then, the appeal filed by the petitioner before the Debts Recovery Appellate Tribunal, shall stand dismissed.

8. The writ petition is accordingly disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

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

[K.K.R.K., J.]

29.11.2023

Index : Yes / No
Neutral Citation : Yes / No

PM

To:



W.P(MD)No.26941 of 2019

- 1.The Chairperson,
Debt Recovery Appellate Tribunal,
Chennai.
- 2.The Presiding Officer,
Debt Recovery Tribunal,
Madurai.
- 3.The District Collector,
Tirunelveli District, Tirunelveli.
- 4.The Revenue Divisional Officer,
Tenkasi, Tirunelveli District.



WEB COPY



W.P(MD)No.26941 of 2019

THE HONOURABLE CHIEF JUSTICE
and
K.K. RAMAKRISHNAN, J.

PM

W.P(MD)No.26941 of 2019

29.11.2023