



W.P.(MD)No.27616 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.27616 of 2023

and

W.M.P.(MD)No.23723 of 2023

S.Mohan

... Petitioner

Vs.

The Authorized Officer,
IDBI Bank Limited,
Salai Road Branch,
No.57/A, Ground Floor,
Rohini City Square,
Salai Road,
Trichy-620 018.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the Debts Recovery Tribunal, Madurai dated 07.11.2023 dismissing the condonation petition in S.A.S.R.No.8635 of 2023 in I.A.No.2564 of 2023 filed by the petitioner and quash the same.

For Petitioner : Mr.A.B.Jeeva
For Respondent : Mr.E.Vijayaragavan



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ORDER

(Order of the Court was made by ***V.LAKSHMINARAYANAN, J.***)

The petitioner earlier filed W.P.(MD)No.24709 of 2023. In the said writ proceedings, the notices issued by the Advocate Commissioner as well as the order passed by the Chief Judicial Magistrate, Trichy were challenged. The said writ petition was dismissed holding that the proper remedy for the petitioner is to approach the Debts Recovery Tribunal at Madurai. This order was passed on 11.10.2023. In the said order, we granted 15 days time for the petitioner to approach the Debts Recovery Tribunal.

2.Pursuant to the order of this Court, an appeal was filed before the Debts Recovery Tribunal on 19.10.2023. The said appeal was rejected by the Tribunal on 07.11.2023 holding that the appeal has not been filed in time.

3.When this Court has granted time to the appellant to approach the Debts Recovery Tribunal and the appellant taking benefit of the order also approached the Debts Recovery Tribunal within the time granted by this Court, the Debts Recovery Tribunal should have entertained the appeal taking note of the



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fact that the appeal itself was filed pursuant to the orders of this Court.

Unfortunately, by order dated 07.11.2023, the appeal has been rejected as barred by time. Furthermore, during the relevant time, the Tribunal was not fully functioned as it did not have a Presiding Officer.

4.Taking note of the over all circumstances of the case and the fact that the petitioner had approached the Debts Recovery Tribunal within the time granted by this Court, we are inclined to set aside the order dated 07.11.2023 dismissing the petition filed for condonation of delay.

5.As a result, the order made in S.A.S.R.No.8635 of 2023 in I.A.No. 2564 of 2023 dated 07.11.2023 is set aside. The Debts Recovery Tribunal shall take the appeal on file, number and dispose of the same on merits. Leaving open all the defences to the parties, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)
14.12.2023

NCC : Yes / No
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AND

V.LAKSHMINARAYANAN, J.

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