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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.R.P.No.787 of 2021

P.NAVEEN CHAKRAVARTHY
SUSPENDED BOARD OF DIRECTOR CUM SHAREHOLDER
OF M.K.CABLES AND CONDUCTORS (P) LTD,
(UNDER LIQUIDATION)
PLOT NO. D16 (N), 1ST SIPOT INDUSTRIAL COMPLEX,
GUMMIDIPOONDI, CHENNAI – 601201. .. Petitioner

Vs

1. PUNJAB NATIONAL BANK
REP BY ITS AUTHORIZED OFFICER,
ASSET RECOVERY MANAGEMENT BRANCH,
PNB TOWERS, MEZZANINE FLOOR,
NO.46-49, ROYAPETTAH HIGH ROAD,
CHENNAI – 600014.

2. RAMAKRISHNAN SADASIVAN
LIQUIDATOR OF
M.K.CABLES AND CONDUCTORS PVT LTD,
OLD NO.22, NEW NO.28,
MENOD STREET, PURASAWALKAM,
CHENNAI – 600007.

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3. DRILL JIG BUSHING CO. (MADRAS) PVT. LTD
NO.44, SIDCO AMBATTUR,
CHENNAI – 600098. .. Respondents

Prayer : Petition filed under Article 227 of the Constitution of India to call for records of the order dated 12/02/2021 in RA (SA) No.7/2019 on the file of Debt Recovery Appellate Tribunal at Chennai against order dated 13/12/2018 passed in SA No.126/2018 on the file of Debts Recovery Tribunal-II at Chennai and set aside the same.

For Petitioner	:	Mr.B.Deepak Narayanan
For Respondents	:	Mr.M.L.Ganesh for 1st respondent
	:	Mr.T.Ravichandran for M/s.Shree Law Services for 2nd respondent
	:	Mr.K.V.Babu for 3rd respondent

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ORDER

(Order of the Court was made
by SENTHILKUMAR RAMAMOORTHY,J.)

The petitioner assails an order dated 12.2.2021 of the Debt Recovery Appellate Tribunal (DRAT) in RA (SA) 7 of 2019.

2. The petitioner was a Director of M.K.Cables and Conductors (Private) Limited, which is a company under liquidation. He asserts that he is a large shareholder of the said company. One of the assets of the company in liquidation was mortgaged to the Punjab National Bank. The said asset consisted of a land measuring 3.19 acres, which was situated in the SIPCOT Industrial Complex at Gummidipoondi. At the time of sanction of the loan, a building measuring about 20,000 sq.ft. was constructed thereon. Therefore, the original Memorandum of Deposit of Title Deeds executed on 14.3.2014 was in respect of the land and building measuring 20,000 sq.ft. Subsequently, it appears that a further 39,770 sq.ft. was constructed by the company. Therefore, by a Memorandum of Deposit of

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Title Deeds executed on 24.12.2018, the additional extent of 39,770 sq.ft. was also mortgaged to the bank.

3. In view of default of company in repaying the loan, the loan was classified as a non-performing asset (NPA) and proceedings were initiated by the bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The bank made several attempts to bring the property for sale. On several of these occasions, the petitioner herein challenged the respective sale notices. The present proceedings relate to the tenth auction sale notice issued by the bank on 4.5.2018. This auction sale notice was challenged by the company unsuccessfully in S.A.No.126 of 2018. Upon being carried in appeal before the DRAT, the appeal also came to be rejected. The petitioner challenged an earlier order of the DRAT dated 21.8.2019 before this court in W.P.No.27780 of 2019. This writ petition was allowed on the sole ground that a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 was in operation when the DRAT issued the order. Therefore, the order was set aside by holding that it was open to the DRAT to pass a

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similar order as the moratorium has ended, since the company was now under liquidation. The order impugned herein came to be issued in these facts and circumstances.

4. The primary ground of challenge to the impugned order is that the property was described as a land with building measuring an extent of 20,000 sq.ft., instead of 59,770 sq.ft. Learned counsel for the petitioner contends that the property would have fetched a higher price if the correct extent of 59,770 sq.ft. was mentioned in the sale notice.

5. This contention is countered by Mr.M.L.Ganesh by stating that the valuation report was in respect of the land and building admeasuring 59,770 sq.ft. By referring to the earlier order of the DRAT dated 21.8.2019, Mr.Ganesh points out that the DRAT had noticed that the extent of 59,770 sq.ft. had been mortgaged to the bank as per the Memorandum of Deposit of Title Deeds. He also points out that the valuation report duly took into consideration the total extent and that, therefore, the property fetched an appropriate price. He further submits that the petitioner does not have the

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locus standi to maintain this civil revision petition, inasmuch as the company is in liquidation and the liquidator participated in the auction sale process.

6. Mr.K.V.Babu, who represents the auction purchaser, submits that the property was sold and purchased on the basis that it consists of land admeasuring about 3.19 acres and building admeasuring about 59,770 sq.ft. He also submits that the auction purchaser paid the entire sale consideration.

7. The first issue that falls for consideration is whether the petitioner has *locus standi* to maintain this civil revision petition.

8. The admitted position is that the company is under liquidation. Ordinarily, in such situation, it is only the liquidator who is entitled to represent the interest of all the stakeholders of the company. The exception to this rule would be where it is asserted and established that the liquidator has failed to protect the interest of any of the stakeholders of the company.

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On examining the memorandum of grounds of the civil revision petition, we find that the petitioner has not even alleged that the liquidator has failed to protect the interest of the stakeholders, such as the petitioner. In fact, in ground (D), the petitioner asserts that the DRAT issued the impugned order without giving the petitioner and the liquidator of the company opportunity to be heard. Therefore, the petitioner has failed to establish that he is entitled to canvass the case of the company on account of the default of the liquidator in doing so.

9. Although this conclusion is sufficient to dismiss the petition, the merits of the petitioner's assertion are briefly considered.

10. The petitioner contended that the auction sale notice described the building as measuring 20,000 sq.ft. and not 59,770 sq.ft.

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11. Mr.Ganesh contended that this did not result in the property fetching a lower price, inasmuch as the valuation report valued the land and building admeasuring 59,770 sq.ft.

12. On examining the earlier order of the DRAT dated 21.8.2019, it is noticeable that the DRAT recorded that the valuation report reckoned the fact that the building admeasured about 60,000 sq.ft. In fact, the petitioner also does not have any grievance with such valuation report and has, admittedly, not filed a counter valuation report to establish that the property was undervalued. In fact, counsel for petitioner, to a query posed by the court as to why the valuation was not challenged, candidly admitted that the petitioner was happy with the valuation report.

13. In these facts and circumstances, we are not inclined to exercise discretion in favour of the petitioner.

14. We notice that the bank has made numerous efforts to sell the

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property, as evidenced by the fact that the current sale is pursuant to the tenth auction sale notice. At each stage, the petitioner has endeavoured to thwart the attempt of the bank to realise its legitimate dues.

15. In these circumstances, we dismiss this writ petition with costs of Rs.1,00,000/- to be paid to the bank. This amount shall be paid within two weeks from the date of receipt of a copy of this order. If costs are not paid in terms of this order, the amount may be added by the bank to the total dues of the personal guarantor. Consequently, interim application is closed.

(K.R.SHRIRAM, C.J.) (SENTHILKUMAR RAMAMOORTHY,J.)
11.12.2024

Index : Yes/No
NC : Yes/No
sasi

To:

THE AUTHORIZED OFFICER,
PUNJAB NATIONAL BANK

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