WMP No.13727 of 2024
in
WP No.3516 of 2024

THE HON'BLE CHIEF JUSTICE
and

J.SATHYA NARAYANA PRASAD, J.

(Order of the Court was made by the Hon'ble Chief Justice)

The present application is filed for recall of the order dated 17.04.2024, passed by this Court, in WP No.3516 of 2024.

2. Mr.V.Raghavachari, learned Senior Counsel for the applicants submits that the order sought to be recalled was passed without hearing the present applicants. The present applicants were not added as parties though they were parties in the recovery proceedings. Learned Senior Counsel submits that the property in question is not a secured asset. The mortgaged properties are different. The property in question was never given as security. The secured assets are untouched. At the behest of the bank, the original borrower, through whom the applicants claim, is declared as insolvent. The bank does not have any right or propriety to proceed against the said property once declaration is sought of insolvency. According to learned Senior Counsel, this court had directed the Recovery Officer, Debts Recovery Tribunal, to proceed ahead with the execution and even to take further steps *qua* the property for recovery of the amount

under the recovery certificate and also to detain the certificate debtor in civil prison. Rights of the applicants are jeopardized because of the order sought to be reviewed and recalled.

3. Mr.Om Prakash, learned Senior Counsel for the bank, submits that the applicants are parties to the recovery proceedings. Between the bank and the parties, the matter has gone up to Supreme Court in respect of another property. The applicants do not have any *locus standi* to assail the recovery certificate.

4. The said contentions are denied by learned Senior Counsel for the applicants.

5. The writ petition was filed wherein the dispute was between the original writ petitioner and the Tax Department. The attachment of the Tax Department was in force. The recovery certificate was not being executed. It was only in that context, the writ petition was filed. A statement was made that the tax liability has been cleared and now the lock and seal has been opened. The attachment does not exist now. It is on that premise, we had passed the order, sought to be reviewed/recalled.

6. In the order under review, we have not adjudicated upon the rival rights of the parties i.e. the certificate debtor and the certificate holder. In case the present applicants have any grievance with regard to the attachment and/or the recovery certificate, it is for the applicants to agitate before the Recovery Officer, as may be permissible under law. The contentions of the applicants are kept open.

7. It is once again made clear that our order was with regard to the attachment by the Tax Department and no further.

8. With these observations, the application stands disposed of.

(S.V.G., CJ.) **(J.S.N.P., J.)**
30.04.2024

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THE HON'BLE CHIEF JUSTICE
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J.SATHYA NARAYANA PRASAD, J.

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