



WEB COPY



WP.No.13981/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.13981/2024 & WMP.No.15172/2024

1.V.Suresh Kumar
2.Mrs.Irudhaya Mary

... Petitioners

Vs.

DBS Bank India Limited
[erstwhile Lakshmi Vilas Bank Ltd]
represented by its Authorised Officer
Mr.M.Rengarajan
Chennai Regional Office
Plot No.136, 2nd Floor, Greaves Road
Chennai 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorarified mandamus calling for the order in TSA.No.10/2023 in SA.No.405/2022 vacating the status quo and the proceedings of DRT-III, Chennai dated 29.04.2024 and to quash the same as arbitrary and illegal and to pass further direction to be heard the OA.No.345/2017 [TA.No.175/2023] on 20.06.2017 and SA.No.405/2022



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[TSA.No.10/2023] pending before DRT-III, Chennai, simultaneously in a time bound manner as may be fixed by this Court and restraining the respondent Bank from taking any coercive action.

For Petitioners : Mr.C.Emalias

For Respondent : Mr.A.Kapaleeswaran

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

(1)This writ petition is filed by the petitioner for issuance of a writ of certiorarified mandamus to quash the order passed by DRT-III in TCA.No.10/2023 dated 29.04.2024 vacating the interim order of status quo and for further direction to the DRT-III to hear OA.No.345/2017 [now TA.No.175/2023] along with SA.No.405/2022.

(2)The petitioners admit that the respondent / Bank has assigned the debts and assets in favour of the Asset Reconstruction Company even when the writ petition was filed. The petitioner has filed TSA.No.10/2023 before DRT-III questioning their liability. It is also admitted that the petitioners did not make any payment after the account was declared NPA. It is



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admitted that proceedings was initiated for taking possession of the property and an order was passed under Section 14 by the learned Judicial Magistrate on 01.06.2022. However, the order is challenged before the Tribunal. The Tribunal was inclined to dismiss TSA.No.10/2023 for want of merits. However, when the Tribunal was about to pass orders, the learned counsel for the petitioners requested the Tribunal to give a final opportunity to negotiate with the Bank to regularise their loan account. After withholding the final order in the Transfer Application, the Tribunal has given a liberty to the petitioners to approach the respondent / Bank at the request of the petitioners. Since the subject debt has been assigned to a Asset Reconstruction Company, the petitioners were directed to approach the said Asset Reconstruction Company. The petitioners have now filed the writ petition challenging the said order mainly on the ground that the petitioners dispute the liability and have also initiated proceedings against the respondent / Bank for taking action against Bank officials for certain irregularities. The petitioners further state that there is a counter claim by the petitioners before the DRT-III, as against the respondent / Bank.



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(3) This Court finds that the writ petition filed by the petitioners is liable to be dismissed for want of *bona fides*. The petitioners who state that they have raised several issues before the Debts Recovery Tribunal, have come before this Court challenging the order not for *bona fide* reason but to get interim orders stalling the proceedings. As pointed out earlier, at the request of the petitioners, to approach the assignee to regularise the loan account, the proceedings were kept pending. However, no payment was made. The petitioners admit that the respondent / Bank has now assigned the debts in favour of an Asset Reconstruction Company which is also a necessary party. It is not necessary that the petitioners should also be given a notice or the respondent / Bank should get consent from the petitioners before assigning the debts and assets in favour of Asset Reconstruction Company. The petitioners may have independent right to proceed against the officers of respondent for any irregularities. However, that does not mean that proceedings initiated against the petitioners should be stalled in a proceedings without impleading the Asset Reconstruction Company who has now stepped into the shoes of respondent.



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(4)The writ petition therefore stands **dismissed**. No costs. Consequently,
connected miscellaneous petition is closed.

[S.S.S.R., J.] [N.S., J.]
18.06.2024

AP
Internet : Yes

To

DBS Bank India Limited
[erstwhile Lakshmi Vilas Bank Ltd]
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S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

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