



WP No.23009 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.23009 of 2023
and WMP No.22508 of 2023

The Authorised Officer,
M/s.LIC Housing Finance Ltd.,
"Harrington Chamber", Block No.C,
No.30/1A, Abdul Razack 1st Street,
Saidapet, Chennai 600 015.

.. Petitioner

-VS-

1. The Senior Manager,
Punjab National Bank,
Asset Recovery Management Branch,
Khivraj Buildings, First Floor,
No.624, Anna Salai, Chennai 600 006.
2. The Registrar,
Debt Recovery Appellate Tribunal,
7th Floor Additional Office Building,
Shastri Bhavan, Haddows Road,
Nungambakkam, Chennai 600 006.
3. The Registrar
Debts Recovery Tribunal-I,
6th Floor, Additional Office Building,
Shastri Bhavan, Haddows Road,
Nungambakkam, Chennai 600 006.



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4. D.R.Premchander
5. Haseena Parveen

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned order dated 11.04.2023 passed in R.A. (S.A.) No.18 of 2018, on the file of the 2nd respondent and to quash the same, allow the said appeal filed by the petitioner seeking to set aside the order dated 31.08.2017 passed in S.A.No.11 of 2014 on the file of DRT-I, Chennai and consequentially uphold the SARFAESI measures initiated by the petitioner.

For the Petitioner : Mr.Om Prakash
Senior Counsel
for Ramalingam and Associations

For the Respondents : Mr.Abdul Mubeen for R-5
: No appearance for RR 1 and 4
* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Om Prakash, learned senior counsel for the petitioner and Mr.Abdul Mubeen, learned counsel for respondent No.5.

2. The petitioner is a creditor. It has sold the property of the borrower in an auction. The sale notice was issued on 18.11.2013. The sale was conducted on 23.12.2013. The property was sold for



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Rs.42,25,000/- (Rupees forty two lakhs twenty five thousand only).

The claim of the present petitioner bank was Rs.35,38,615/- (Rupees thirty five lakhs thirty eight thousand six hundred fifteen only). The balance was paid to the Punjab National Bank who was also a secured creditor of the same borrower.

3. The borrower challenged the same before the Debts Recovery Tribunal (DRT). The DRT set aside the sale on the ground that the bank failed to place on record the relevant documents. The bank filed an appeal bearing R.A. (S.A.) No.18 of 2018 before the Debt Recovery Appellate Tribunal (DRAT), Chennai. The same is dismissed on the ground that the documents are not produced.

4. The learned Senior Advocate for the petitioner submits that the Appellate Tribunal lost sight of the fact that the petitioner had filed an application bearing I.A.No.630 of 2018 for production of documents. 14 documents were produced in the appeal. The said application is also allowed subject to the right of the respondents therein to file counter. However, while passing the final order, the Appellate Tribunal observed that the documents are not filed. It's own



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order dated 14.12.2018 allowing production of additional documents was ignored by the Tribunal.

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5. The respondent No.4, though served, is absent. Initially notice was issued to respondent No.4 through Court. The said Court notice was returned as unserved on the ground that respondent No.4 is not found. Private notice was taken by the petitioner and the same was returned as not found. Thereafter, the notice was served upon respondent No.4 by publication in a local daily. The matter was called out on 05.02.2024. On the said date, none appeared for respondent No.4. So as to give one more opportunity, we adjourned the matter to 20.02.2024. Today also, none appears for respondent No.4.

6. We have gone through the judgment and order passed by the Appellate Tribunal so also the Debts Recovery Tribunal. From the proceedings of 14.12.2018 in R.A. (S.A.) No.18 of 2018, it appears that the petitioner's application I.A.No.630 of 2018 for production of additional documents (14) was allowed and the right was given to the respondents therein to file counter to these documents. However, while passing the final order, the Chair Person of the DRAT recorded



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that the documents are not filed by the petitioner. The same does not appear to be in tune with the facts on record and the order passed by the Appellate Tribunal allowing production of additional documents on 14.12.2018.

7. In light of that, the impugned judgment and order passed by the DRAT is quashed and set aside and the matter is remitted to the DRAT, Chennai, for fresh decision. Considering the fact that the matter is of 2013 and the matter is remitted back to the Appellate Tribunal, the Appellate Tribunal shall endeavour to decide the same expeditiously.

With the aforesaid observations and directions, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sra)

To

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