



W.P.No.27929 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.27929 of 2024

G.Ashok

.. Petitioner

Vs

1.The Registrar,
Debts Recovery Appellate Tribunal Chennai,
7th Floor, Additional Office Buildings,
Shastri Bhavan, Haddows Road,
Chennai-600 006.

2.The Authorised Officer,
The Karur Vysys Bank Limited,
Asset Recovery Branch,
No.1, Padmavathiyar Road,
2nd Floor, (Off Peters Road),
Gopalapuram, Chennai-600 086.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the first respondent to number the appeal on deposit of the balance amount as per the "debt due" of the Sec 13(2) Demand Notice dated 20.9.2023 of Rs.91,17,546/- already Rs.80 lakhs paid to the second respondent on 4.3.2024 and balance amounting to Rs.11,17,546/- with the Registrar



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of the DRAT Chennai in AIR No.1230 of 2024.

For the Petitioner : Ms.Gomathi.S

ORDER

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

This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the first respondent to number the appeal on deposit of the balance amount with the Registrar of the Debt Recovery Appellate Tribunal, Chennai in AIR No.1230 of 2024, after deducting Rs.80 lakh already paid by the petitioner to the second respondent bank.

2. Learned counsel for the petitioner submitted that as against the order dated 27.6.2024 passed by the Debts Recovery Tribunal-III, Chennai in SA E-drt Dy.No.574/2024 (SASR No.3998/2024), the petitioner has filed an appeal under Section 18 of the SARFAESI Act, 2002 before the Debt Recovery Appellate Tribunal, Chennai along with an application to waive the pre-deposit. According to learned counsel for the petitioner, the Registry of the Debt Recovery Appellate Tribunal



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has not numbered the said appeal and is insisting on payment of pre-deposit and, therefore, a direction be issued to the Debt Recovery Appellate Tribunal to number the appeal without insisting the pre-deposit.

3. Whether or not an application to waive the pre-deposit is filed is not known and disclosed in the writ petition. The petitioner has also failed to enclose a copy of the application along with the writ petition. In the absence of any averment or the copy of the waiver application, it cannot be presumed that the petitioner had filed waiver application along with the appeal before the Debt Recovery Appellate Tribunal. In the instant case, the prayer of the petitioner is to direct the first respondent to number the appeal on deposit of the balance amount as per the demand notice dated 20.9.2023, less the amount of Rs.80 lakh paid by him. Such a prayer cannot be acceded to exercising jurisdiction under Article 226 of the Constitution of India, when the amount is in dispute between the secured creditor and the borrower.

4. It appears that the order under challenge before the Debt Recovery Appellate Tribunal is dated 27.6.2024 in SA E-drt



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Dy.No.574/2024, which was filed challenging the sale notice dated 30.1.2024. The Debts Recovery Tribunal disposed of the said SA as infructuous holding that the SA itself is filed after the date of auction. Further, the Debts Recovery Tribunal observed that the contentions raised by the petitioner of having cleared the loan may be represented to the bank directly, which be considered by the bank. When such being the observation of the Debts Recovery Tribunal, the very same prayer cannot be sought by the petitioner in the writ jurisdiction. Therefore, on this score also, the present writ petition is not maintainable.

5. The writ petition is dismissed. There shall be no order as to costs. This order shall not preclude the Debt Recovery Appellate Tribunal from considering and passing orders either on the waiver application or on the appeal filed by the petitioner on merits and in accordance with law.

(D.K.K., ACJ.) (M.J.R., J.)
24.09.2024

Index : Yes/No
NC : Yes/No



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THE HON'BLE ACTING CHIEF JUSTICE
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