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W.P.No.27627 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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Bhagyanagar Solvent Extraction Private Limited,
rep. by its Director C.Adhinarayana,
Corporation Office
No.9, Flat No.702, 7th Floor,
Manju Block, Chitra Avenue,
Choolaimedu High Road,
Chennai-600 094.

.. Petitioner

Vs

1.The Authorised Officer,
Indian Renewable Energy Development
Agency Limited (IREDA),
A Government of India Enterprise,
Core 4A, East Court, 1st Floor,
India Habitat Centre, Lodhi Road,
New Delhi-110 003.

2.Shri Syed Fahad

3.The Debts Recovery Appellate Tribunal,
rep. by its Registrar,
Sasthri Bhavan,
Haddows Road, Chennai-600 006.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the third respondent or the in charge Tribunal, viz., the Hon'ble DRAT, Calcutta to hear and dispose of the appeal filed by the petitioner in R.A.(S.A) 6 of 2024 expeditiously and within a time frame to be fixed by this Court.

For the Petitioner : Mr.N.Ramakrishnan

For the Respondents : Mr.Jose John
for M/s.King & Patridge
for respondent No.1

: Ms.A.Sella Visalakshi
for respondent No.2

ORDER

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

By consent, the main writ petition itself is taken up for final disposal.

2. This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the third respondent or in-charge Tribunal, namely the Debts Recovery Appellate Tribunal, Calcutta, to hear and dispose of the appeal filed by the petitioner in R.A.(S.A)



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No.6 of 2024, expeditiously.

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3. Learned counsel for the petitioner submitted that the first respondent had issued a demand notice under Section 13(2) of the SARFAESI Act in 2012 demanding Rs.33,81,67,155/-, followed with possession notice dated 20.9.2018 and took physical possession of the secured assets. Challenging the possession notice, the petitioner has filed S.A.No.184 of 2018 before the Debts Recovery Tribunal-I, Chennai, which was dismissed on 16.12.2020. On 6.3.2023, the first respondent issued a sale notice for sale of the movable assets of the petitioner's power plant fixing the upset price of Rs.1.00 crore. Aggrieved by the sale notice, the petitioner had filed S.A.No.6 of 2023 before the Debts Recovery Tribunal-I, Chennai, and during the pendency of the said SA, the first respondent sold the movable assets for Rs.4.75 crore to the second respondent and a sale certificate dated 12.4.2023 was also issued to the second respondent. Thereafter, the second respondent started to remove the materials from the site. Pursuant to the representation made by the petitioner on 4.8.2023, the Debts Recovery Tribunal-I, Chennai, passed an order directing the respondents 1 and 2 therein to maintain *status*



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quo. Thereafter, S.A.No.6 of 2023 was dismissed on 10.11.2023 with a direction to the first respondent to hand over all the movable assets provided the petitioner deposits the sale consideration of Rs.4.75 crore along with interest at the rate of 9% per annum on or before 27.11.2023. The petitioner has filed M.A.No.20 of 2023 for extension of time and the Debts Recovery Tribunal extended the time upto 14.12.2023.

4. Learned counsel for the petitioner further submitted that in violation of the order of *status quo* dated 4.8.2023 passed by the Debts Recovery Tribunal, the second respondent removed several loads of machineries. Challenging the order dated 10.11.2023 passed by the Debts Recovery Tribunal in S.A.No.6 of 2023, the petitioner has filed an appeal along with waiver and stay petitions before the Debt Recovery Appellate Tribunal, Chennai in A.I.R.No.1827 of 2023. In the mean while, the second respondent was removing the fittings, fixtures and machineries from the premises in cahoots with the first respondent.

5. Learned counsel for the petitioner then submitted that the



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petitioner has filed W.P.No.35876 of 2023 to direct the Debt Recovery Appellate Tribunal to dispose of the waiver petition, stay petition and the appeal as expeditiously as possible. By the order dated 21.12.2023, this Court granted *status quo* till 4.1.2024 subject to the condition that the petitioner deposits Rs.2 crore within the stipulated time. On 4.1.2024, the Debt Recovery Appellate Tribunal heard the waiver petition in I.A.No.4 of 2024 and allowed the same and granted *status quo* order. On 14.3.2024, when learned counsel for the petitioner requested for extension of the *status quo* order, the Chairperson did not extend the same stating that he would hear the appeal and dispose of the same on merits. On 23.7.2024, learned counsel for the petitioner completed his arguments and learned counsel for the first respondent has also argued in part and the matter was adjourned to 29.7.2024. Since the Chairperson was on leave, the matter was re-posted multiple times.

6. Learned counsel for the petitioner next submitted that the petitioner has filed I.A.No.558 of 2024 on 26.8.2024 for advancing the hearing of the appeal and the same was listed for hearing on 3.9.2024. On 3.9.2024, the Chairperson was on tour and the matter



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was re-posted to 4.9.2024. On 4.9.2024, the first respondent sought time to complete the arguments and the matter was once again adjourned to 13.9.2024. In the mean while, the Chairperson has retired on 9.9.2024.

7. Learned counsel added that taking advantage of the vacancy and the possibility of the appeal not being heard immediately, the second respondent has once again started removing the machineries and equipment from the site. The Debt Recovery Appellate Tribunal, Kolkata, is now notified to be the in-charge for hearing the matters pending before the Debt Recovery Appellate Tribunal, Chennai. As the appeal filed by the petitioner is to be heard and disposed of by the Chairperson of the Debt Recovery Appellate Tribunal, Kolkata, the petitioner has filed the present writ petition for a direction to hear and dispose of R.A. (SA) No.6 of 2024 expeditiously.

8. The order of *status quo* dated 4.8.2023 granted by the Debts Recovery Tribunal-I, Chennai, is not disputed by learned counsel for respondents 1 and 2. Similarly, the *status quo* order dated 21.12.2023 granted by this Court in W.P.No.35876 of 2023 is also not



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disputed by learned counsel for respondents 1 and 2. According to the petitioner, despite the order of *status quo*, the second respondent is removing the materials from the premises.

9. Be that as it may, the prayer in the writ petition is to direct the third respondent to hear and dispose of R.A.(S.A) No.6 of 2024 expeditiously. Admittedly, the regular Chairperson of Debt Recovery Appellate Tribunal, Chennai, is vacant and the Chairperson of Debt Recovery Appellate Tribunal, Kolkata, is notified as in-charge of Debt Recovery Appellate Tribunal, Chennai.

10. Considering the submission made by learned counsel for the petitioner and the limited prayer sought in the writ petition, we are of the view that it would be appropriate to direct the Debt Recovery Appellate Tribunal, Chennai, to dispose of R.A.(S.A) No.6 of 2024 filed by the petitioner within the stipulated time.

11. At this juncture, learned counsel for the second respondent has given an undertaking before this Court that for a period of four weeks the second respondent will not remove the materials from the



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premises in question. The said undertaking given by learned counsel for the second respondent is recorded.

12. Accordingly, the writ petition is disposed of with a direction to the Debt Recovery Appellate Tribunal, Chennai, to dispose of R.A.(S.A) No.6 of 2024 filed by the petitioner within a period of four weeks from the date of receipt of a copy of this order. As undertaken, the second respondent shall not remove materials from the site in question. If R.A.(S.A) No.6 of 2024 is not disposed of within the aforesaid period, the petitioner is at liberty to file an application before the Debt Recovery Appellate Tribunal seeking an interim order. All the parties are directed to cooperate for speedy disposal of R.A.(S.A) No.6 of 2024. There shall be no order as to costs. Consequently, W.M.P.Nos.30146 and 30148 of 2024 are closed.

(D.K.K., ACJ.) (P.B.B, J.)
18.09.2024

Index : Yes/No
NC : Yes/No

Note:

Issue order copy on 19.09.2024.



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To:

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- 1.The Authorised Officer,
Indian Renewable Energy Development
Agency Limited (IREDA),
A Government of India Enterprise,
Core 4A, East Court, 1st Floor,
India Habitat Centre, Lodhi Road,
New Delhi-110 003.
- 2.The Registrar,
Debt Recovery Appellate Tribunal,
Sasthri Bhavan,
Haddows Road, Chennai-600 006.



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THE HON'BLE ACTING CHIEF JUSTICE
AND
P.B.BALAJI, J.

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