



WP No.33622 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.33622 of 2023

Sasikala

: Petitioner

Vs

1.The Authorised Officer,
Indian Bank, Salem,
rep. by its Asset Recovery Management Branch,
31, Variety Hall Road, Coimbatore

2.S.Selvakumar

3.M/s.Saravana Theatre
Periyakrishnapura P.O.
Pethanaicken Palayam Taluk,
Salem District

4.Ranganayati

5.Sekar

6.Sankar

7.Santhi

8.P.T. Palaniswamy

9.Rathinam

10.Abilesh

11.Akilesh

12.Settu

13.Jaishankar

14.Srinivasan

15.P.M.Palanimuthu

16.P.T.Kandasamy

17.Poornammal @ Sampoornammal



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18.The Registrar,
Debts Recovery Tribunal
Coimbatore, 2nd and 3rd Floor
Jawans Bhavan,
27, T.B.Road, Coimbatore, 641018

19.The Registrar,
Debt Recovery Appellate Tribunal
Shastri Bhavan, 7th Floor Additional
Haddows Road, Chennai 6

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus call for the records pertaining to AIR No. 1449 of 2023 in Appeal Diary No. 1471 of 2023 in IA. Diary No. 55 of 2023 in RP. No. 822 of 2019 in TRC No. 458 of 2019 on the file of the file of the 19th respondent and quash the order dated 27.10.2023 and consequently direct the Recovery officer of DRT Coimbatore to take the Application IA. Diary No . 55 of 2023 on record and dispose the same in accordance with law.

For Petitioner : Mr.S.P.Chockalingam

For Respondent No.1 : Mr.Sundarajan

For Respondent No.2 : Mr.R.R.Pradheep

No appearance for respondents 3 to 17

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.S.P.Chockalingam, learned counsel for the petitioner, Mr.Sundarajan, learned counsel for the first respondent and Mr.R.R.Pradheep, learned counsel for the second respondent.



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2. The petitioner claims to have filed an application before the Recovery Officer purportedly resorting to Rule 61 of II Schedule of the Income Tax Act, 1961 for setting aside the sale. The said application was rejected by the Registrar of the Debts Recovery Tribunal. The same was never placed before the Recovery Officer. The petitioner filed an appeal before the Presiding Officer. The Registrar, again dismissed the same on the ground that the proceedings are not maintainable as there was a delay in filing the application for setting aside the sale. The petitioner thereafter filed an appeal before the Debt Recovery Appellate Tribunal and the Registrar of the Debt Recovery Appellate Tribunal rejected the appeal as not maintainable.

3. As per the Recovery of Debts and Bankruptcy Act, 1993, "Tribunal" shall consist of one person only, viz., the "Presiding Officer". The orders in recovery proceedings have to be passed by the Recovery Officer, and in an appeal, by the Presiding Officer of the Tribunal. The Registrar may raise objections with regard to the defects and if defects are not rectified, decline to register the application. For deciding the issue and/or aspect of limitation, the matter has to be placed before the Recovery Officer and/or the Presiding Officer, as the case may be.



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In the present case, orders are passed by the Registrar at every stage.

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4. In light of that, the impugned order passed by the Registrar is quashed and set aside. The Registrar, Debt Recovery Appellate Tribunal shall place the matter before the Presiding Officer, Debt Recovery Appellate Tribunal, Chennai, along with his objections. The Presiding Officer shall thereafter pass appropriate orders.

5. The writ petition is disposed of. There shall be no order as to costs. Consequently, WMP No.33449/2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

02.02.2024

Index : Yes/No
Neutral Citation : Yes/No
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