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W.P.No.38090 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.38090 of 2024
and W.M.P.Nos.41211 and 41214 of 2024

M.Thiagarajan

.. Petitioner

Vs

1.The Recovery Officer,
Debts Recovery Tribunal No.2,
4th Floor, Dewa Tower, 770-A,
Anna Salai, Chennai-600 002.

2.IDBI Bank Limited,
rep. by its DGM GV Chandra Bhaskar,
115, Anna Salai, Saidapet,
Chennai-600 015.

3.M/s.Paramount Airways Private Limited,
rep. by the Official Liquidator
(Liquidator of Paramount Airways Pvt Ltd)
Corporate Bhawan, Second Floor,
No.29, Rajaji Salai,
Chennai-600 001.

.. Respondents



W.P.No.38090 of 2024

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to the DRC No.37/2014 in OA No.83 of 2012 impugned orders dated 8.1.2016 ad 16.10.2021 passed by the respondent No.1 and quash the said orders in so far as they pertain to the attachment and sale of the impugned property, which was not listed as security for the credit facilities granted to respondent No.3 and rehear the matter by providing due opportunity to the petitioner to present his case and consequently, direct respondent Nos.1 and 2 to confine all recovery actions strictly to the assets listed in the Schedule of Assets as per the Recovery Certificate and the original application (O.A.No.83 of 2012), which includes the current assets of respondent No.3 and the 20,50,000 shares pledged by the petitioner, and not to extend such actions to the impugned property or any other assets not expressly listed s security.

For Petitioner : Mr.S.Diwakar

ORDER

(Order of the Court was made by S.S.Sundar, J.)

This writ petition has been filed for issuance of a writ of certiorarified mandamus to quash the impugned orders dated 08.01.2016 and 16.10.2021 in DRC No.37/2014 in OA No.83 of 2012 in so far as they pertain to the attachment and sale of the property, which was not listed as security for the credit facilities granted to respondent No.3 and re-hear the matter by providing due opportunity to the petitioner to present his case and consequently, direct respondent Nos.1 and 2 to confine all recovery actions



W.P.No.38090 of 2024

WEB COPY

strictly to the assets listed in the Schedule of Assets as per the Recovery Certificate and the original application (O.A.No.83 of 2012), which includes the current assets of respondent No.3 and the 20,50,000 shares pledged by the petitioner, and not to extend such actions to the impugned property or any other assets not expressly listed as security.

2. The petitioner admitted that the respondent bank has obtained decree in O.A.No.83 of 2012 and recovery certificate has been issued in favour of the bank for recovery of a sum of Rs.95,22,43,790.66p. After the recovery certificate was issued, the bank had initiated proceedings in DRC No.37 of 2014 in O.A.No.83 of 2012 for attachment of the properties of the petitioner. Though the order of attachment in respect of other properties of the petitioner was on 8.1.2016, a subsequent order was passed by the Tribunal on 16.10.2021 after taking note of the recovery proceedings initiated by another financial institution.



W.P.No.38090 of 2024

WEB COPY

3. This Court is unable to find any merit in the contention of the petitioner that the petitioner's properties cannot be attached for recovery of the dues by the respondent bank. It is also stated that the petitioner was not given a fair opportunity to defend his case. Assuming for the sake of argument that a notice is required to be issued to the petitioner, the fact remains that issuance of notice is only a formality. He is liable to pay the outstanding dues to save the property. Therefore, this Court finds no merit in the writ petition.

4. The writ petition is therefore dismissed as devoid of any merits. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.S.SUNDAR J.) (MUMMINENI SUDHEER KUMAR J.)
19-12-2024

Index : Yes/No
NC : Yes/No
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WEB COPY

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WEB COPY



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S.S.SUNDAR,J.
AND
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