



W.P.(MD) No.1226 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.1226 of 2024
and W.M.P.(MD) No.1257 of 2024**

1.S.Selvaraj

2.S.Subburam

3.Indhra

... Petitioners

-VS-

1.The Registrar,
The Debts Recovery Tribunal,
IV Floor, Kalyani Tower Melur Road,
Madurai.

2.M/s.Omkara Asset Reconstruction Private Ltd.,
Rep. by its Authorized Officer,
Office at No.24/3, 1st Floor, Vallamji Mansion,
Opposite to District Court,
Near IDBI Bank Ltd.,
Vinayaga Nagar,
Madurai – 625 020.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to take the petitioners



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WEB C SARFAESI Application S.A.S.R.No.10882/2023 on file and proceed with the case in accordance with law, within the period as stipulated by this Court.

For Petitioners : Mr.A.Haja Mohideen

For Respondents : Mr.K.Govindarajan
Deputy Solicitor General of India for R1

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the 1st respondent to take the petitioners' SARFAESI Application S.A.S.R.No.10882/2023 on file and proceed with the case in accordance with law, within a time frame.

2. By consent of both sides, the Writ Petition is taken up for final hearing at the time of admission itself. Considering the nature of the order proposed to be passed in this Writ Petition, protecting the interests of the 2nd respondent also, notice to the 2nd respondent is dispensed with.



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3. According to the petitioners, they have filed W.P.(MD) No.15873 of 2022 and this Court by order dated 24.11.2022, disposed of the same by directing the petitioners to pay the last installment of Rs.2,00,000/- on or before 24.12.2022 and to pay the entire remaining outstanding amount in six consecutive equal monthly installments. However, the petitioners could not comply the said order. Hence, they filed appeal before the Debts Recovery Tribunal. Citing that the petitioners have not complied with the order passed by this Court, the Tribunal is not entertaining the appeal. Hence, the petitioners have filed this Writ Petition, seeking appropriate directions to the Debts Recovery Tribunal to entertain the said appeal.

4. Considering the submissions made on either side, we are of the view that the conditional order of this Court dated 24.11.2022, in W.P.(MD) No. 15873 of 2022 will not be a bar for entertaining the appeal by the Debts Recovery Tribunal and it has to be considered independently. In such circumstances, the Debts Recovery Tribunal has to consider the explanation submitted by the petitioner and to scrutinize the said appeal without returning the said appeal by stating that the order passed by this Court has not been complied with.



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5. In the light of the above, the Writ Petition stands disposed of with a direction to the petitioners to resubmit the appeal, with the explanation that the aforesaid conditional order of this Court will not be a bar for entertaining the appeal, within two weeks from the date of receipt of a copy order and on receipt of the appeal, the first respondent is directed not to return the papers on the ground that the order of this Court dated 24.11.2022 passed in W.P.(MD) No. 15873 of 2022 has not been complied with and the same may be considered independently. We make it clear that we have not expressed anything on the limitation in filing the appeal. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

[D.K.K., J.] [R.V., J.]
22.01.2024

Index : Yes / No
Internet : Yes / No
SJ

To

1. The Registrar,
The Debts Recovery Tribunal,
IV Floor, Kalyani Tower Melur Road,
Madurai.



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and
R.VIJAYAKUMAR, J.

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