



W.P(MD)No.6168 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6168 of 2024
and
W.M.P(MD)Nos.5785 & 5786 of 2024

S.N.Ganapathy

... Petitioner

Vs.

1.The Recovery Officer,
Debts Recovery Tribunal,
Madurai.

2.Indian Overseas Bank,
Sankarankovil Branch,
Represented by its Branch Manager,
248, P.R.Perumal Raja Building,
Rajapalayam Main Road,
Sankarankovil,
Tenkasi District.

3.S.Balasubramanian

4.N.K.S.D.Subramanian

... Respondents



W.P(MD)No.6168 of 2024

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order passed by the first respondent in M.A.No.200 of 2023 in R.P.No.43 of 2007 in T.R.C.No.28 of 2003 dated 20.02.2024 and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.N.Dilip Kumar
Standing Counsel for R.2

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the second respondent.

2.The petitioner challenges the impugned order passed by the recovery officer of Debts Recovery Tribunal, Madurai. The case of the petitioner is that the second respondent herein filed O.A.No.467 of 2001 before DRT No.2, Chennai against Anooshuya Cotton Mill / fourth respondent herein. The OA was allowed. The recovery certificate was also issued. Subsequently, the property was brought to auction. The third respondent herein was the auction purchaser. Auction was held on 18.11.2005. The sale certificate was registered on 19.01.2006. With



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great difficulty he obtained possession of a substantial portion of the property purchased by him in the auction. However, he could not take possession of the petition mentioned 12 (7+5) cents of land which are in 2 items. To recover the remaining portion, the Bank / second respondent herein filed M.A.200 of 2023. In the said application, the petitioner wanted to implead and raise obstruction. The impleading application was returned on 17.02.2024. Thereafter, MA was allowed on 20.02.2024. Challenging the said order, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner places heavy reliance on the decree dated 06.12.2019 made in O.S.No.165 of 2017 on the file of IV Additional District Judge, Tirunelveli. The learned counsel for the petitioner emphasizes the fact that the third respondent herein was shown as the first defendant in the suit.

4.I do not want to go into the said issue for the present. As rightly pointed out by the learned Standing Counsel appearing for the Bank, the petitioner is very much having the remedy of appeal under Section 30 of



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the Recovery of Debts and Bankruptcy Act, 1993. The said provision reads as follows:

“30. Appeal against the order of Recovery Officer.—

(1) Notwithstanding anything contained in section 29, any person aggrieved by an order of the Recovery Officer made under this Act may, within thirty days from the date on which a copy of the order is issued to him, prefer an appeal to the Tribunal.

(2) On receipt of an appeal under sub-section (1), the Tribunal may, after giving an opportunity to the appellant to be heard, and after making such inquiry as it deems fit, confirm, modify or set aside the order made by the Recovery Officer in exercise of his powers under sections 25 to 28 (both inclusive).”

When the statute provides an effective alternative remedy more so when it relates to recovery of Bank dues, the writ Court will be slow to interfere in the matter at the threshold stage. At the same time, I am mindful of the fact that the petitioner invokes the decree passed by the civil Court in this favour.

5. Taking note of these aspects, I permit the petitioner to file an appeal before the Debts Recovery Tribunal, Madurai. If such an



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appeal is filed within two weeks from the date of receipt of a copy of this order, it shall be entertained straightaway without reference to limitation.

The said appeal to be filed by the petitioner herein will be disposed of on merits and in accordance with law by the Tribunal within a period of eight weeks thereafter. Till the disposal of the appeal by the Debts Recovery Tribunal, the impugned order shall be kept in abeyance. The impugned order will abide by the result of the appeal to be filed by the petitioner. If the petitioner fails to file the appeal within two weeks, the benefit of this order would stand automatically vacated. I reiterate that I have not gone into the merits of the matter. The contentions of all the parties are left open.

6.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

Note: Issue order copy on 19.03.2024.

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G.R.SWAMINATHAN, J.

MGA

To

- 1.The Recovery Officer,
Debts Recovery Tribunal,
Madurai.
- 2.The Branch Manager,
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Sankarankovil Branch,
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