



W.P.No.27412 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.27412 of 2019
and W.M.P.No.26869 of 2019

M/s.Standard Chartered Bank,
rep. by its Authorised
Anand Prakash,
No.19, Rajaji Salai,
Chennai-600 001.

.. Petitioner

Vs

1.The Debts Recovery Appellate Tribunal,
By its Registrar,
55, Ethiraj Salai,
Chennai-600 002.

2.M/s.State Bank of India,
Service Branch No.14, Whites Road,
Royapettah, Chennai-600 014
rep. by their Assistant General Manager.

3.R.Karunakaran



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4.The Authorised Officer,
ABN Amro Bank Limited,
No.19/1, Haddows Road,
Chennai-600 006.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records in order dated 29.11.2018 made in RA No.1 of 2016 on the file of Debts Recovery Appellate Tribunal, Chennai in O.A.No.374 of 2015 (old O.A.No.175 of 2005) on the file of DRT-II, Chennai and quash the same.

For Petitioner : Mr.B.Manoharan

For Respondents : Mr.P.Elayaraj Kumar
for M/s.Ramalingam and Associates
for respondent No.2

: R1 – Tribunal

: R3 & R4 – Not Ready in Notice

ORDER

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

The petition impugns an order dated 29.11.2018 passed by the Debt Recovery Appellate Tribunal at Chennai, by which, the appellant was held liable to pay a sum of Rs.3,44,606/-.

2. For convenience, we refer the parties by their names.



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3. State Bank of India (SBI) filed Original Application (OA) under Section 19(1) of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [RDDB&FI Act], as it was then called. The OA was filed for recovery of a sum of Rs.20,55,109.30 from one R.Karunakaran (D1); Standard Chartered Bank, appellant herein (D2); and ABN Amro Bank Limited (D3) jointly and severally with *pendente lite* and further interest at 14.25% per annum with quarterly rests from the date of application till the date of payment in full with costs. We are informed that the amount actually claimed was Rs.12,92,117/- and not Rs.20,55,109.30.

4. SBI, during the course of its business, received two interest warrants from Standard Chartered Bank (SCB) and ABN Amro Bank (ABN Amro) favouring Karunakaran through high value clearance purported to be issued by Shipping Credit and Investment Company of India Limited (SCICI). The two instruments that came up for collection were purported to be drawn on SBI's Mumbai Main Branch, but payable at par in any branch of the SBI. SBI honoured the two instruments and amounts were credited



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to Karunakaran's account through SCB and ABN Amro. Thereafter, the two instruments were sent for collection to SBI Mumbai Main Branch, which informed the SBI that SCICI was not having an account with them and had no business dealing with them. It was informed that both were fraudulent instruments.

5. When SBI contacted Karunakaran's bankers i.e., SCB and ABN Amro, it came to light that Karunakaran had opened accounts with SCB and ABN Amro just three months' ago and Karunakaran had withdrawn the entire amount leaving a paltry sum in his account. It was SBI's case that SCB and ABN Amro should have carefully monitored Karunakaran's account. Criminal cases were also filed against Karunakaran in Chennai. SBI called upon SCB and ABN Amro to pay the total amount of Rs.11,67,923/-. ABN Amro did not enter any appearance, but SCB entered appearance and raised preliminary issue of maintainability of the application before the Debts Recovery Tribunal. The Debts Recovery Tribunal, though considered various evidence, dismissed the application by holding that SBI was not entitled for a recovery certificate. The Debts



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Recovery Tribunal, after considering the definition of “*debt*”, came to a finding that SBI's application was on bank fraud and bank fraud amount cannot be claimed by way of filing an original application under Section 19 of the RDDB & FI Act.

6. Against this order, an appeal was preferred by SBI before the Debt Recovery Appellate Tribunal, which allowed the appeal, vide the impugned order dated 29.11.2018. In the impugned order, the Debt Recovery Appellate Tribunal has noted that the OA was dismissed by the Debts Recovery Tribunal after observing that money given to Karunakaran in the name of interest warrants cannot be treated as debt and, hence, the OA was not maintainable. While allowing the appeal, the Debt Recovery Appellate Tribunal has not articulated as to how the Debts Recovery Tribunal would have jurisdiction. It only says that, in its opinion, the loss caused to SBI on the basis of fake interest warrants submitted by Karunakaran is recoverable by the orders of the Debts Recovery Tribunal on the same line as that of debt amount is recovered. Why so is not discussed. The Debt Recovery Appellate Tribunal also says it is true that preparation of fake interest



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warrants of SBI by Karunakaran and honouring the instruments is an act of negligence on the part of SBI, but then also there is negligence on the part of SCB and ABN Amro and, therefore, came to a conclusion that SBI, SCB and ABN Amro are equally responsible. There is no finding on evidence as to how the SCB was contributorily negligent. On both these counts, in our view, the order of the Debt Recovery Appellate Tribunal calls for interference.

7. Petition is allowed. The impugned order dated 29.11.2018 is hereby quashed and set aside. We direct SBI to pay a sum of Rs.1,00,000/- [Rupees One Lakh only] as costs to petitioner and this amount shall be paid within four weeks. Consequently, connected interim application is closed.

(K.R.SHRIRAM, C.J.)

(SENTHILKUMAR RAMAMOORTHY, J.)

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Index : Yes/No
NC : Yes/No
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Debt Recovery Appellate Tribunal,
55, Ethiraj Salai,
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- 2.The Assistant General Manager,
M/s.State Bank of India,
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THE HON'BLE CHIEF JUSTICE
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