IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

CORAM

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

WP No.21346 of 2023
and WMP No.20748 of 2023

Anthony Samy .. Petitioner

-vs-

1. R-1 deleted from the array of respondents vide order dt.20.07.2023 made in WP.21346/2023.

2. The Authorized Officer,
State Bank of India,
RBO-1, Administrative Officer,
Trichy-1.

3. Tamilselvam .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the Debt Recovery Appellate Tribunal at Chennai (1st Respondent) in MA (SA) No.32 of 2021 dt. 27.06.2023 and quash the same and consequently pass orders condoning the delay of 945 days in filing the application under Section 17 of the SARFAESI Act in SA (SR) No.2591 of 2020 on the file of Debts Recovery Tribunal, Madurai.

For Petitioner	:	Mr.A.E.Chelliah Senior Counsel for Mr.R.Prathapan
For Respondents	:	R-1 deleted
	:	Mr.B.Raghavulu Naidu for R-2
	:	Mr.R.Thamaraiselvan for R-3

* * * * *

ORDER

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

The petitioner impugns an order passed by the Debt Recovery Appellate Tribunal by which petitioner was directed to deposit Rs.12 lakhs as condition to entertain the appeal. The appeal was filed challenging the order passed by Debts Recovery Tribunal which did not condone the delay of 945 days.

2. After the matter was heard for some time, when the Court made observation that the notice of sale issued was bad and there are incorrect statements having been made in the application as well as the affidavit filed in support of the application under Section 14 of the SARFAESI Act, the counsels requested the matter be kept back to see if it could be settled.

3. We should also note that we had expressed a view to the counsel for petitioner that restitution at this delayed stage would be difficult and even if it is granted, the loan payable to the bank would have accumulated. Sri.Chelliah left it to the Court to render justice.

4. After the sale certificate was registered in favour of respondent No.3, the bank informed petitioner on 30.06.2017 that there was excess sale proceeds of Rs.16,22,858/- and the bank returned the said amount by way of Demand Draft enclosing a forwarding letter dated 13.07.2017. Petitioner did not accept the Demand Draft, but returned it. Therefore, the Court said that the bank should compensate petitioner suitably because even after the auction was conducted, the EMI was continued to be deducted from petitioner's saving account. The Court suggested that this amount of Rs.16,22,858/- should be paid back with 15% interest.

5. Sri.Raghavulu Naidu appearing for the bank, after taking instructions, stated that 15% is too high and a reasonable rate may be granted by the Court. Sri.Chellaiah was insistent on 15%.

6. After we deliberated amongst us, the Court decided that 12% per annum interest will be a reasonable amount to compensate petitioner.

7. Therefore, we direct the bank to pay this amount of Rs.16,22,858/- together with interest thereon at 12% per annum from 01.07.2017 until payment/realisation, since on 30.06.2017 itself second respondent has informed petitioner to receive the excess sale proceeds of Rs.16,22,858/-. The entire amount shall be paid within two weeks from today. If petitioner does not want any TDS to be deducted on the interest, petitioner shall file Form 15H with the bank.

8. Mr.Chellaiah states that petitioner has deposited a sum of Rs.12 lakhs in the Debt Recovery Appellate Tribunal. Both respondents state that they have no objection if the Debt Recovery Appellate Tribunal returns the amount to petitioner together with accumulated interest, if any.

9. The Debt Recovery Appellate Tribunal shall, within two weeks of receiving an application from petitioner, return the amount of Rs.12 lakhs

together with accumulated interest and the consent of bank recorded in this order itself will be treated as a consent to return the money and the Debt Recovery Appellate Tribunal shall not wait to issue notice to the bank and seek its response.

Petition is disposed of. There shall be no order as to costs. Consequently, the interim application stands closed.

(K.R.SHRIRAM, CJ.) **(MOHAMMED SHAFFIQ, J.)**
28.03.2025

Index : Yes/No
Neutral Citation : Yes/No

sra

To

1. The Authorized Officer,
   State Bank of India,
   RBO-1, Administrative Officer,
   Trichy-1.

2. The Debt Recovery Appellate Tribunal,
   Chennai.

3. The Debts Recovery Tribunal,
   Madurai.

The Hon'ble Chief Justice
and
Mohammed Shaffiq, J.

(sra)

WP No.21346 of 2023

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