



WEB COPY



W.P.Nos.26304 and 26310 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025

CORAM :

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

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.26304 and 26310 of 2019
and WMP Nos.25657, 25658 and 25660 of 2019

S.Rangasamy (Deceased)

P2-R.Thirunavukkarasu
S/o S.Ramasamy,
No.4/2, Namakkal Main Road,
Unjanai Post 637 205,
Tiruchengode Taluk,
Namakkal District.

(P2 substituted as LR of
deceased sole petitioner vide
order dated 06.07.2022 made
in WMP Nos.33434 and
33435 of 2019
in W.P.Nos.26304 and 26310 of 2019
by CJ, NMJ)

.. Petitioner in
W.P.Nos.26304 and
26310 of 2019

VS



W.P.Nos.26304 and 26310 of 2019

Authorised Officer,
Union Bank of India,
Mallasamudram branch,
No.57/1-A, Dr.Subbarayan Road,
Mallasamudram,
Tiruchengode Taluk,
Namakkal District-637 503

.. Respondent in
W.P.Nos.26304 and
26310 of 2019

Prayer in W.P.No.26304 of 2019: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, calling for the records relating to the impugned order dated 19.06.2019 passed by the Debt Recovery Appellate Tribunal in RA No.199 of 2018, filed against the order in OA.No.193 of 2012 on the file of DRT, Madurai and quash the same and consequently, dismiss OA No.193 of 2012 on the file of DRT, Madurai.

Prayer in W.P.No.26310 of 2019: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, calling for the records relating to the impugned order dated 19.06.2019 passed by the Debt Recovery Appellate Tribunal, Chennai, in RA-198/2018 filed against the order in S.A.No.241/2013 on the file in DRT, Madurai and quash the same and consequently allow main S.A.No.241/2013 on the file of the DRT, Madurai.

For Petitioner : Mr.K.Prabhuraj

For Respondent : Mr.T.Govindasamy



W.P.Nos.26304 and 26310 of 2019

COMMON ORDER

WEB COPY

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

In W.P.No.26304 of 2019, petitioner is impugning the order dated 19.06.2019 passed by the Debt Recovery Appellate Tribunal (DRAT), Chennai, by which, the DRAT was pleased to partly allow the appeal of borrower one, S.Rangasamy, who has since expired, and in W.P.No.26310 of 2019, petitioner is assailing an order dated 19.06.2019 passed by the DRAT dismissing the appeal filed by the petitioner and affirming the order passed by the Debts Recovery Tribunal (DRT) rejecting the challenge to the auction sale notice.

2. Rangasamy had availed certain facilities from respondent bank. As the said Rangasamy committed default and also failed to settle the dues of the bank in spite of reasonable opportunity being given, bank filed an application, being O.A.No.193 of 2012, under Section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (In short 'RDDB&FI Act'), now it is called as the Recovery and Debts and Bankruptcy Act, 1993 (in short 'RDB Act'), to recover from Rangasamy, a sum of Rs.63,57,649/-,

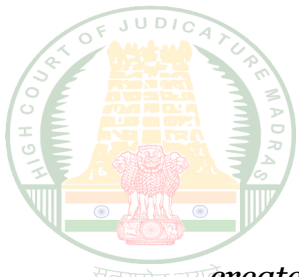


W.P.Nos.26304 and 26310 of 2019

WEB COPY

as on 16.03.2012, *pendente lite*, and future interest at 15.50 % per annum was also claimed with effect from 17.03.2012, till the date of realization. The sale of properties mortgaged and hypothecated properties was also sought for.

3. The DRT, vide order dated 20.12.2017 passed in O.A.No.193 of 2012, was pleased to hold that the bank was entitled to recover from the said Rangasamy a sum of Rs.63,57,649/- as on 16.03.2012 together with *pendente lite* and future interest at 15.50 % per annum. Before the DRT, an issue of limitation was also raised and it was argued by borrower that the claim was filed on 19.03.2012, after a lapse of 12 years, and therefore, equitable mortgage is barred by law of limitation. However, the limitation issue was held in favour of the bank by relying on the Debit Balance Confirmation letters that the borrower had written on various dates. The last of the Debit Balance Confirmation letter is dated 23.11.2010 and the said letter provides “... *further confirm and acknowledge that the debt is secured in the manner ... and that the aforesaid documents of security/and the equitable mortgage by deposit of title deeds and/or legal mortgage*



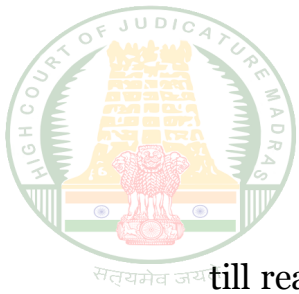
W.P.Nos.26304 and 26310 of 2019

WEB COPY

created on 26.04.1994 are in full force and effect and that the security thereunder is also in full force and effect. ...". Therefore, the DRT held that the claim was within limitation.

4. In the interregnum, borrower filed S.A.No.241 of 2013 under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the DRT seeking to quash the tender-cum-auction sale notice dated 20.9.2013. The DRT, vide order dated 28.12.2017, dismissed the application.

5. The borrower filed an appeal in RA No.199 of 2018 before the DRAT questioning the correctness of the order dated 20.12.2017 in O.A.No.193 of 2013. In the appeal, though the issue of limitation has been referred to, it has not been discussed. At the same time, the DRAT partly allowed the appeal by holding that only an amount of Rs.14,37,536/- was recoverable along with contractual interest of 15.50% per annum compounded from 26.12.2002 till the date of filing of the OA, which is 19.03.2012. For the period from the date of filing of OA, i.e. 19.03.2012



W.P.Nos.26304 and 26310 of 2019

WEB COPY

till realization, it was held that bank will have a right of recovery of interest at 12% per annum (simple). This has attained finality so far as bank is concerned, because bank has not challenged this order.

6. Shri Prabhuraj submitted that the DRAT has not discussed the issue of limitation raised, though it has referred to.

7. Though there is no specific finding in the DRAT's order on the issue of limitation raised, in our view, sending the matter back to DRAT only to decide that issue will not enure to anybody's benefit. This is because copies of all Debit Balance Confirmation letters are available on record. All have been signed by the borrower late Rangasamy from year to year. Therefore, having heard the counsel and having considered the documents before us, we are satisfied that no part of the claim is barred by limitation. Since this was the only ground of challenge, W.P.No.26304 of 2019 is dismissed.

8. Aggrieved by the order passed by the DRT rejecting the challenge



W.P.Nos.26304 and 26310 of 2019

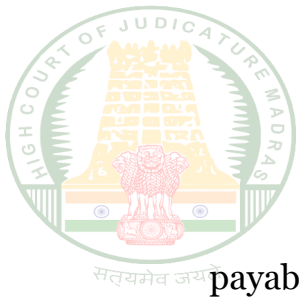
WEB COPY

to the auction sale notice, borrower filed R.A.(SA) No.198 of 2018 before the DRAT. In the said appeal, the DRAT noticed the fact that borrower, on 23.11.2010, had signed the confirmation and acknowledgement of dues letter of Rs.13,18,059.46 as on 31.5.2002 and in view of the same, all technical objections regarding limitation and mortgage come to an end. The DRAT dismissed the appeal holding it to be devoid of substance.

9. The reasoning given by this Court while dismissing W.P.No.26304 of 2019 applies on all fours to this case also and the claim of the bank is not barred by limitation. Accordingly, W.P.No.26310 of 2019 is also dismissed.

10. During the course of arguments, the Court asked the bank whether it would accept a one time settlement.

11. Counsel for the bank filed a memo annexing thereto a copy of the letter dated 24.02.2025 addressed to petitioner together with a calculation sheet. The calculation sheet shows that as on 19.03.2012, the amount



W.P.Nos.26304 and 26310 of 2019

WEB COPY

payable was Rs.54,48,243.87/-. From 20.03.2012 up to 28.02.2025 interest at 12% per annum (simple) has been calculated, but on an incorrect figure of Rs.54,48,243.87/-. Considering the order of DRAT, this also should have been on Rs.14,37,536/- only.

12. In the result, both writ petitions are dismissed. There shall be no order as to costs. Consequently, interim applications also stand closed.

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

(MOHAMMED SHAFFIQ.J.)

19.03.2025

Index : Yes/No
NC : Yes/No
mrn

To:

1. The Registrar, DRAT, Chennai.
2. The Registrar, DRT, Madurai
3. The Authorised Officer,
Union Bank of India,
Mallasamudram branch,
No.57/1-A, Dr.Subbarayan Road,
Mallasamudram,
Tiruchengode Taluk,



W.P.Nos.26304 and 26310 of 2019

Namakkal District-637 503

WEB COPY



WEB COPY



W.P.Nos.26304 and 26310 of 2019

THE HON'BLE CHIEF JUSTICE
AND
MOHAMMED SHAFFIQ.J.

(mrn)

W.P.Nos.26304 and 26310 of 2019
and WMP Nos.25657, 25658 and 25660 of 2019

19.03.2025