IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No. 190 of 2025
&
C.M.P.No. 1286 of 2025

1. S.Natarajan

2. N.Thirunavukkarasu ...Petitioners

Vs.

1.M/s.Union Bank of India
Rep. By its Chief Manager, (erstwhile corporation bank)
Tirupur

2.M/s.GP.Knits
Rep. By its partner, Mr.Ravichandran
office at Sugam Residency,
Kamatchi Amman Weavers Colony,
Rakkiyapalayam road,
Ammapalayam,
Tirupur

3.R.Ravichandran

4.Gopalakrishnan

5.The Tirupur Co-operative Housing Society Ltd.
No.K.1917, Rep. By its Secretary,
Kumaran Road,
Tirupur-641601 ...Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Debts Recovery Tribunal, Coimbatore to take on file MA no.143/2024 seeking to set aside the ex parte decree dt. 15.03.2024 in OA no.24/2010 and pending disposal of the aforesaid MA no. 2024 to grant a stay in RC/60/2024 and to pay the cost of the suit to the petitioner.

For Petitioner : Ms. M.P.Gunasri

ORDER

The 4th and 6th defendants in O.A.No.24 of 2010 on the file of the Debts Recovery Tribunal, Coimbatore, are the petitioners before this Court.

2. The petitioners would state that they are, father and son respectively. The 1st petitioner purchased the immovable property under a registered sale deed dated 31.08.1981. He availed a loan from the Tirupur Cooperative Housing Society, the 5th respondent herein and subsequently, the said Society was amalgamated with the 1st respondent.

3. It is the contention of the petitioners that the 1st petitioner was in need of money for construction of building. On 03.01.2002, the 1st petitioner approached his Auditor S.Murugan for availing loan facility. The said S.Murugan had facilitated the loan from the 1st respondent bank. The loan was taken jointly with the 3rd respondent firm as the 3rd respondent was customer of the Auditor. However, the petitioners had no acquaintance of the respondents 3 to 5, prior to the availing of the loan. The said S.Murugan and respondents 4 and 5 had informed the 1st petitioner that the loan could be secured only if the 1st petitioner offered the property as collateral security.

4. The petitioners would submit that the 2nd respondent is very well known to the said S.Murugan and taking advantage of the lack of education on the part of the 1st petitioner and his inability to read and write the English language, the said S.Murugan in collusion with the respondents 2 to 5 have obtained the signature of the 1st petitioner in several filled and unfilled papers. The 1st petitioner who was in urgent need of the funds simply listened to his Auditor.

5. On 12.09.2002, the Auditor and the 2nd, 4th and 5th respondents, go an acknowledgment of receipt of Rs.1,35,000/- from the petitioner in favour of the 1st respondent at Auditor's office. All the original documents title deeds were also handed over by the 1st petitioner to the 2nd respondent.

6. The petitioners would submit that the 1st petitioner has also repaid the loan amount to the 1st respondent in the presence of respondents 2, 4 and 5. When the 1st petitioner asked for closure of the

loan and the payment receipts, the said S.Murugan and respondents 2, 4 and 5 informed the petitioners that they would handover the documents only after completion of certain formalities.

7. Thereafter, the 1st petitioner had availed a sum of Rs.5,00,000/- from the Tirupur Cooperative Housing Board Society, by way of a registered deposit of title deeds. While so, the 1st petitioner received a notice under the SARFAESI Act, from the Cooperative Bank, SME Branch, Tirupur, stating that proceedings had been initiated against the 1st petitioner for willful default.

8. The petitioners would submit that the loan account number was different from the loan account number under which the 1st petitioner had availed the loan. It was only when he perused the notice he came to learn that the proceedings was with reference to the loan taken by the 3rd respondent firm. He came to learn that the blank signed documents were utilised to show the 1st petitioner as partner of the 3rd respondent firm. Further, respondents 2, 4, 5 and the Auditor

had availed loan from the 1st respondent using the 1st petitioner's original registered sale deed.

9. To cut a long story short, the 1st respondent based on the above documents had instituted proceedings before the Debt Recovery Tribunal, Coimbatore, against the petitioner and respondents 2 to 5. The petitioners would submit since the 1st petitioner was suffering from ill health he was unable to attend the case at the time of argument. The petitioners and respondents 2 to 5 were set ex parte and an order was passed against the petitioners on 15.03.2024 in O.A.No.24 of 2010.

10. The petitioners would submit that fraud had been played upon them and their property brought in as a collateral security. Further, the 1st petitioner had re-paid the entire loan amount despite which action has been taken against him. Therefore, the petitioners had filed application for setting aside the ex parte order.

11. Meanwhile, proceedings for recovery had been initiated in DRC.No.60 of 2024 and the same was pending. In the said Recovery proceedings, the petitioners' request for staying the DRC proceedings in the light of the petition for setting aside the ex parte order has not been considered by the Debts Recovery Tribunal. Therefore, the petitioners are before this Court.

12. The learned counsel for the petitioners would submit that the stay petition filed in DRC proceedings was not been numbered. Therefore, the petitioners have come forward to file the revision for the relief set out supra.

13. Heard the learned counsel for the petitioners and perused the records.

14. The petitioners are already before the Debts Recovery Tribunal challenging the recovery proceedings and seeking stay of the

proceedings. The petitioners' grievance is that the Debts Recovery Tribunal is not taking his application on file and numbering the stay petition. However, considering the fact that their application for setting aside the ex parte order is pending hearing despite which the recovery proceedings are going on, a direction is issued to the Debts Recovery Tribunal, Coimbatore, to dispose of MA.No.143 of 2024, within a period of 3 months from the date of receipt of a copy of this order.

15. The Civil Revision Petition is disposed of with the above directions. Consequently, the connected miscellaneous petition is closed. No costs.

05.02.2025

Index : Yes/No
Internet : Yes/No

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To

The Debts Recovery Tribunal,
Coimbatore.

P.T. ASHA, J,

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