



W.P.(MD)No.326 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE MR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.326 of 2025

and

W.M.P.(MD)No.220 of 2025

1.Rajkumar

2.N.Ramesh

3.R.Amutha

: Petitioners

Vs.

The DBS Bank India Ltd.,

Rep. by its Branch Manager,

Door No.220-221,

Big Bazaar Street,

Trichy – 620 008.

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records from file of Debt Recovery Appellate Tribunal at Chennai in I.A.No. 31 of 2022 of AIR No.236 of 2021 and to quash the order dated 28.11.2024.

For Petitioner : Mr.M.Saravanakumar

For Respondent : Mr.S.I.Muthiah

Standing Counsel



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ORDER

[Order of the Court was made by M.S.RAMESH, J.]

By consent of both sides, the writ petition itself is taken up for final disposal at the stage of admission itself.

2.This writ petition has been filed challenging the order dated 28.11.2024 passed by the Debt Recovery Appellate Tribunal, Chennai, in I.A.No.31 of 2022 of AIR No.236 of 2021.

3.The respondent Bank had filed an original application in O.A.No.390 of 2013 against the petitioners herein for recovery of a sum of Rs.18,73,807.75/- with accrued interest. The petitioners were set ex-parte on 21.11.2014 and final orders were passed on 15.12.2017 by the Debts Recovery Tribunal, Madurai. Thereafter, an application in I.A.No.1929 of 2018, was filed by the petitioners to condone the delay of 199 days in filing the petition to set aside ex-parte order. By an order dated 19.03.2020, the Debts Recovery Tribunal, Madurai, had dismissed the petition in I.A.No.1929 of 2018, by holding that there were no convincing and satisfying reasons for condoning the delay and also by taking into account that the recovery certificate has already been issued and recovery proceedings have been initiated by the recovery officer.



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4.As against the aforesaid rejection order, the petitioners have preferred an appeal under Section 20 of “the Recovery of Debts Due to Banks and Financial Institutions Act, 1993” [hereinafter referred to as “the Act”], with an interlocutory application under Section 20(3) of the Act in I.A.No.31 of 2022, seeking for condoning the delay of 614 days in filing the appeal.

5.The Debts Recovery Tribunal, through its order dated 28.11.2024 had dismissed the condone delay application and consequently its appeal also, which order is under challenge in this Writ Petition.

6.The only reason assigned before the Debts Recovery Tribunal in the application in I.A.No.31 of 2022, for the delay is that the petitioners herein were not aware when their account was classified as NPA and that their advocate was unable to appear before the Debts Recovery Tribunal. A perusal of the affidavit filed in support of the condone delay application reveals that the petitioners had entered appearance through their Advocate in the main Original Application No.390 of 2013 and thereafter, their Advocate had failed to appear, which resulted in setting them ex-parte in the proceedings.



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7. When it is admitted by the petitioners themselves that they had entered appearance in the main Original Application, we fail to understand as to how they can claim ignorance of any further proceedings therein. Not a single reason has been given for the inability of their Advocate in the proceedings in the affidavit filed in support of the condone delay application. The Debts Recovery Tribunal has taken note of these aspects and recorded that the reason assigned in the application was not acceptable and accordingly, had dismissed the same and consequently rejected the Original Appeal also. We do not find any infirmity or illegality in the said order and therefore, does not warrant any interference.

8. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[M.S.R.,J.] & [A.D.M.C.,J.]

07.01.2025

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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M.S.RAMESH, J.

and

A.D.MARIA CLETE, J.

MR

ORDER MADE IN

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