

(2013) 12 MAD CK 0087

In the Madras High Court

Case No : Writ Petition No. 33750 of 2013

T.N. Balakrishnan

APPELLANT

Vs

The Authorised Officer, Bank of India

RESPONDENT

Date of Decision : 12-12-2013

Acts Referred:

Citation : (2013) 12 MAD CK 0087

Hon'ble Judges : M. Kalyanasundaram, J;M. Jaichandren, J

Bench : Division Bench

Advocate : K.A. Ramakrishnan, for the Appellant; F.B. Benjamin George, for the Respondent

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—Heard the learned counsel appearing on behalf of the petitioner, as well as the learned counsel appearing on behalf of the respondent-Bank. The present Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Certiorari calling for the records relating to the SARFAESI Appeal, in S.A. No. 77 of 2013, on the file of the Debts Recovery Tribunal, Coimbatore, and quash the docket order, dated 22.11.2013, passed therein.

2. The learned counsel appearing on behalf of the petitioner had submitted that the Debts Recovery Tribunal, Coimbatore, has passed an order, dated 22.11.2013, in S.A. No. 77 of 2013, granting an order of interim stay, subject to the petitioner depositing a sum of Rs. 11 lakhs, with the respondent-bank, in three instalments. The 1st instalment of Rs. 3 lakhs was directed to be paid, on or before 29.11.2013, the 2nd instalment of Rs. 4 lakhs was directed to be paid, on or before 13.12.2013, and the 3rd instalment of Rs. 4 lakhs was directed to be paid, on or before 31.12.2013. It had also been made clear that in case of non-payment of any of the instalments, as mentioned above, the stay granted would stand vacated and the respondent-bank would be at liberty to proceed further in the matter.

3. The learned counsel appearing on behalf of the petitioner had submitted that the petitioner had paid the 1st instalment of Rs. 3 lakhs, within the time stipulated by the Debts Recovery Tribunal, Coimbatore, by its order, dated 22.11.2013. However, the petitioner needs further time for the payment of the 2nd instalment of Rs. 4 lakhs, which falls due, on 13.12.2013.

4. The learned counsel appearing on behalf of the respondent-bank had submitted that it is for the petitioner to approach the Debts Recovery Tribunal, Coimbatore, to seek further time, as prayed for by him, in the present Writ Petition. It is for the Debts Recovery Tribunal, Coimbatore, to pass appropriate orders on the request to be made by the petitioner. As such, the present Writ Petition, filed by the petitioner, seeking further time for the payment of the 2nd instalment of Rs. 4 lakhs, on or before 13.12.2013, cannot be sustained.

5. We have heard the learned counsels appearing for both parties. It is noted that the Supreme Court, in *United Bank of India Vs. Satyawati Tondon and Others*, , has made it clear that the scope of interference by this Court, under Article 226 of the Constitution of India, is limited in nature. It has also made it clear that the statutory schemes provided under the specific enactments should not be defeated by the exercise of the writ jurisdiction by this Court. As such, the alternative remedies provided to the petitioner, under the Securitisation and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002, ought not to be interfered with, by this Court, by invoking its writ jurisdiction, under Article 226 of the Constitution of India. The Supreme Court has reiterated the said position of law, in a recent decision, in *GM, Sri Siddeshwara Co-operative Bank Ltd. and Another Vs. Sri Iqbal and Others*, . In view of the above, we find no cause or reason to interfere with the order passed by the Debts Recovery Tribunal, Coimbatore, in S.A. No. 77 of 2013, dated 22.11.2013. Hence, the Writ Petition stands dismissed. However, it is made clear that it would be open to the petitioner to move the appropriate forum, provided under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and seek the relief, as prayed for by him in the present Writ Petition. If the petitioner approaches the appropriate forum, the appropriate forum shall entertain such matter and dispose of the same on merits and in accordance with law. Consequently, M.P. No. 1 of 2013 is closed. No costs.