

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.1.2010

CORAM:

THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA  
AND  
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.1419 of 2010

Indian Bank  
rep. by its Assistant General Manager  
Head Office, Legal Department  
66, Rajaji Salai  
Chennai - 600 001. ... Petitioner

Vs.

Debts Recovery Tribunal-III  
770-A, Anna Salai  
Spencer Towers, 5<sup>th</sup> Floor  
Chennai - 600 002. ... Respondent

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Mandamus to direct the Debts Recovery Tribunal-III, Chennai to strictly adhere to the time frame fixed under Section 17(5) of the SARFAESI Act.

For Petitioner : Mr.Jayesh Dolia  
for M/s.Aiyar & Dolia

ORDER

(Delivered by F.M.IBRAHIM KALIFULLA, J.)

This writ petition is for issuance of mandamus to direct the Debts Recovery Tribunal-III, Chennai to strictly adhere to the time frame fixed under Section 17(5) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act").

2. The grievance of the petitioner, as set out in the affidavit filed in support of this writ petition as well as the statement filed in the type set of papers, is that contrary to the time schedule fixed under Section 17(5) of the SARFAESI Act the Tribunal is not taking necessary endeavour to dispose of the cases expeditiously.

3. Mr.Jayesh Dolia, learned counsel appearing for the petitioner though was fully aware of Section 17(6) of the SARFAESI Act would contend that a direction by this court in consonance with the prayer

made in the writ petition would go a long way to expedite the disposal of the pending cases.

4. Having heard the learned counsel, we are of the considered opinion that a reading of Sections 17(5) and 17(6) of the SARFAESI Act does not persuade us to grant the prayer as couched in this writ petition.

5. In the first instance, under Section 17(6) of the SARFAESI Act it is specifically provided that if any application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (5), the aggrieved party can approach the appropriate Appellate Tribunal seeking for necessary directions for expeditious disposal of the pending application before the Debts Recovery Tribunal. Therefore, if in any particular case the petitioner has got any specific grievance, the petitioner can always work out such a statutory remedy available to it under Section 17(6) of the SARFAESI Act. It is not the case of the petitioner that the Presiding Officers of the Debts Recovery Tribunal are whiling away the time. On the other hand, the learned counsel fairly admitted that in the Debts Recovery Tribunal there is enough work every day and the Presiding Officers arrange their work in such a way so that they are fully engaged for the whole of the day.

6. If that be so, when in Section 17(5) of the SARFAESI Act it is specifically stated that the Debts Recovery Tribunal should deal with the applications filed under sub-section (1) as expeditiously as possible and dispose of the same within the time stipulated therein, it only suggests that the Tribunal should take every earnest effort and endeavour in disposing of the applications filed before it at the earliest possible time. Therefore, when the law-makers themselves have thought it fit to give necessary leeway for the appropriate Tribunal to arrange their work in such a way in order to give expeditious disposal of the cases and the Tribunals in tune with the said statutory prescription discharge their functions diligently, it is not for this Court to issue a blanket direction as has been prayed for by the petitioner in this writ petition.

We, therefore, do not find any scope to entertain this writ petition. The writ petition fails and the same is dismissed. No costs.

Sd/-  
Asst. Registrar

//true copy//

Sub Asst.Registrar

sasi

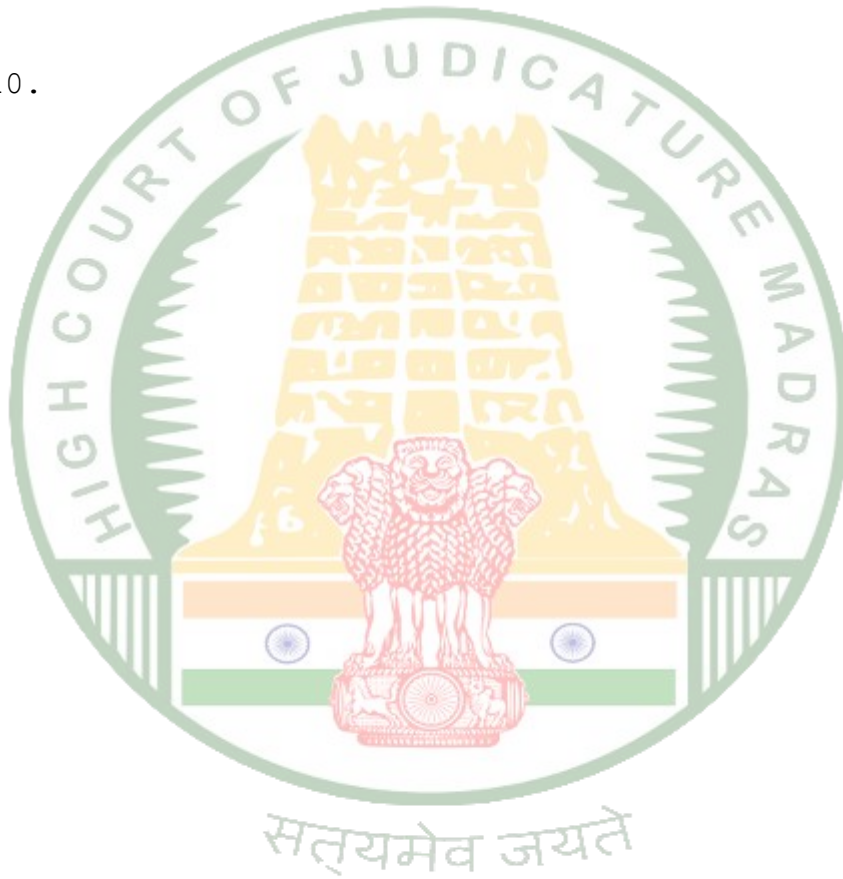
To:

The Registrar  
Debts Recovery Tribunal-III  
770-A, Anna Salai  
Spencer Towers, 5<sup>th</sup> Floor  
Chennai - 600 002.

1 cc to M/s.Aiyar & Dolia, Advocate, Sr.No.5071

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SP {CO}  
TP/8.2.2010.



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