

IMPLEADMENT OF NECESSARY PARTY

II (2009) BC 573 (DB)

MADRAS HIGH COURT

S.J.Mukhopadhyaya and M.Venugopal, JJ.

KAMALDHEEP SYNTHETIC LIMITED & ANR. – Petitioners Versus

DEBTS RECOVERY APPELLATE TRIBUNAL & ANR. - Respondents

W.P.Nos. 27987 and 30483 of 2007 – Decided on 12.2.2008

Constitution of India, 1950 – Article 226 – Recovery of Debts Due to Banks and Financial Institutions Act, 1993 – Section 22 – Impleadment of Necessary Party – Not a substantive right but one of procedure – Act confers on *suo motu* powers on DRT nor semblance of such powers can be gathered under Section 22 of Act – Petitioner challenged order passed by Tribunal on ground that said order was passed against non-existent party – without deciding such issue, if Tribunal directs petitioner to implead ICICI as party respondent to appeal, it will frustrate question raised in appeal – If one or other necessary party is not impleaded, it is always open to Court to pass such order after determination of issue while deciding issue on merits – Impugned order set aside. (Paras 14, 15, 16)

Result: *Writ Petitions allowed.*