

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE DR.JUSTICE P. DEVADASS

W.P.No.29922 of 2015 and M.P.Nos.1,2 of 2015

P.Ramakrishna Raju

Petitioner

Vs.

1.Canara Bank,
Peenya Branch,
Rep by its Senior Manager,
B.R.Balasundar, Bangalore.

2.M/s.New Tech Industries [Kar] Pvt. Ltd.,
B-1/13, Peenya Industrial Estate,
I Stage I Cross,
Bangalore 560 058.

3. Ramgopal Sharma
4. Mallika Sharma
5. S.Raghavan
6. Anitha Suresh
7. A.Jayakumar
8. A.Prabhakar
9. Jayalakshmi
10. G.Suresh

11.The Area Manager,
LIC Housing Finance Ltd.,
15/1 Hayes Road, Bangalore 560 025.

12.The Registrar,
Debt Recovery Appellate Tribunal,
Chennai.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the impugned order passed by the 12th respondent on 28.7.2015 on the file of the Debt Recovery Appellate Tribunal, Chennai in I.A.No.736 of 2014 in R.A.No.18 of 2013 and quash the same.

For petitioner : Mr.G.Veerapathiran

For respondents: Mr.R.Umasuthan for R1
Mr.N.C.Ramesh, Senior Counsel
for Mr.D.S.N.Gandhi for R6, R10
Mr.R.Varadarajan for R7, R8
Private notice served on RR2 to 5,9 &11
No appearance

ORDER

(Order of the Court was delivered by SATISH K. AGNIHOTRI,J.,)

Feeling aggrieved by the direction issued by the Debt Recovery Appellate Tribunal to the petitioner herein to deposit 25% of Rs.1,80,50,960/-, within a period of eight weeks, the petitioner has come up with this petition, contending that the petitioner is not liable to make any pre-deposit. During the pendency of this petition, the petitioner had already made the deposit, as directed by the Debt Recovery Appellate Tribunal. Thus, the question as to whether the petitioner is liable to make pre-deposit, while filing the appeal under Section 20 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993, according to the petitioner, requires consideration.

2 It is informed by the learned counsel appearing for the private respondents / guarantors that the petitioner's application was considered and decided by the Debt Recovery Appellate Tribunal without impleading proper and necessary parties as respondents and also without affording an opportunity of hearing to them. It is further stated that appropriate application for impleadment is still pending consideration. Thus, it is submitted that the matter may be remitted back to the Debt Recovery Appellate Tribunal for fresh consideration after affording opportunity of hearing to all concerned and proper parties, in accordance with law.

3 The learned counsel appearing for the petitioner, on the aforestated submissions, submits that since the petitioner had already deposited 25% of Rs.1,80,50,960.00, as directed by the appellate Tribunal, the matter may be remitted back to the Debt Recovery Appellate Tribunal to consider afresh, as aforestated, taking into account the factum of deposit of the amount and pass appropriate order.

4 Having considered all aspects of the matter, we are of the considered opinion that in the factual matrix, as aforestated, it is proper to set aside the impugned order. Accordingly, the impugned order passed by the Appellate Tribunal

is set aside and the matter is remitted back to the Debt Recovery Appellate Tribunal for fresh consideration on merit and in accordance with law, after affording an opportunity of hearing to all concerned. It is needless to state that the petitioner shall not be entitled to refund of deposit, which he has made as pre-condition pursuant to the direction of the appellate Tribunal as well as by the order of this court dated 23rd September, 2015.

5 With the aforesaid observation and direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vvk

To

1.The Senior Manager,
Canara Bank,
Peenya Branch,
Bangalore.

2.The Area Manager,
LIC Housing Finance Ltd.,
15/1 Hayes Road, Bangalore 560 025.

3.The Registrar,
Debt Recovery Appellate Tribunal,
Chennai.

+ 1 cc to Mr.G. Veerapathran, Advocate Sr.63977

KJI (CO)
Eu 14.12.15

W.P.No.29922 of 2015

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