

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14/12/2016

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Writ Petition No.27300 of 2014

R.Hariharan
,

Petitioner

Vs

1. The Debt Recovery Appellate Tribunal
rep. By its Registrar
4th Floor
Indian Bank Circle Office
55 Ethiraj Salai
Chennai.
2. The Debt Recovery Tribunal
rep. By its Registrar
1670 Trichy Road
Ramanathapuram
Coimbatore 641 045.
3. The Authorised Officer
Indian Overseas Bank
931 Park Road
Erode.

4. A. Gopalakrishnan ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the proceedings dated 3/1/2014 in M.A.(SA) No.346 of 2011, on the file of the first respondent and quash the same and consequently direct the second respondent to dispose S.A.No.254 of 2011 (originally filed before the Debts Recovery Tribunal, Madurai) and now pending before the Debts Recovery Tribunal, Coimbatore.

For petitioner ... Mr.L.Chandrakumar

For respondents ... Tribunal
- R.R.1 and 2.

Mr.F.B.Benjamin George
for R.3

No appearance for R.4.

O R D E R

(Order of the Court was made by S.Manikumar,J)

Proceedings impugned in the instant writ petition is to an order made by the Debts Recovery Tribunal, Chennai, in M.A.(SA).No.346 of 2011 and the same is extracted hereunder:-

"It is seen that the amount claimed from the borrowers is Rs.51,51,370/-. Therefore, from the fact that this tribunal is bound by Sec.18 of the SARFAESI Act, from the fact that petitioner has stepped into the shoes of the borrower by claiming right over the secured asset, from the fact that the non repayment of public money leads to the creation of NPAs which damage the economic fabric of the nation and from the fact that the interest of the bank outweighs the interest of reduction of the pre-deposit from that of 50% to 25% of the amount demanded from the borrower from the fact that whatever amount that is directed to be deposited as the pre deposit will lie only in this Tribunal till the disposal of the appeal, the following order is passed.

"The petitioner is directed to deposit a sum of Rs.25,75,685/- into this tribunal on or before 31.1.2014. In the event the said deposit is not made into this tribunal on or before 31.1.2014 this IA shall stand automatically dismissed.""

2. Though Mr.L.Chandrakumar, learned counsel for the writ petitioner, assailed the correctness of the aforesaid order on the averments made in the supporting affidavit, going through the material available on record, the reasons assigned in M.A.(SA).No.346 of 2011, by the Debts Recovery Appellate Tribunal, Chennai, in declining to reduce the pre-deposit from 50% to 25%, as a condition

precedent, to entertain an appeal, we are of the view that the petitioner has not made out a strong case for reduction. The amount determined works out to Rs.51,51,370/- and the writ petitioner, who has stepped into the shoes of the borrower, has to make a pre-deposit under Section 18 of the SARFAESI Act.

3. On this day, the learned counsel for the petitioner and the third respondent submitted that as per the order made in M.A.(SA). No.346 of 2011, dated 3/1/2014, a sum of Rs.25,75,685/-, directed to be deposited, on or before 31/1/2014, has not been done. As stated supra, failure to deposit the sum would result in an automatic dismissal of I.A. Consequent to the above, Tribunal, by this time would have dismissed the above Petition also.

4. For both the reasons stated supra, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mvs.
To

1. The Registrar
Debt Recovery Appellate Tribunal
4th Floor
Indian Bank Circle Office
55 Ethiraj Salai
Chennai.

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Debt Recovery Tribunal
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3. The Authorised Officer
Indian Overseas Bank
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+1cc to Mr.F.B.Benjamin George, Advocate, S.R.No.73054

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