

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2016

CORAM

THE HONOURABLE MR. **JUSTICE S.MANIKUMAR**

AND

THE HONOURABLE MR. **JUSTICE M.GOVINDARAJ**

Writ Petition No.28884 of 2016 and

M.P.No.1 of 2014

1. Ram Kaashyap Investments Limited
Now known as Gemmia Oiltech (India) Ltd.
33/8, C.P.Ramaswamy Road,
Alwarpet, Chennai-18.

2. A.Venkatramani

3. A.Ganesan

... Petitioners

vs.

1. Debts Recovery Appellate Tribunal
rep. by its Registrar,
Chennai.

2. ASREC (India) Ltd
Registered Office & Corporate Office,
Unit Nos.201-200A and 202-200B,
Gr. Floor, Building No.2,
Solitaire Corporate Park,
Chakala, Andheri (East),
Mumbai-400 093.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to its order dated 03.04.2014 passed in I.A.No.1059 of 2013 in AIR No.277 of 2008 and quash the same and consequently, allow the said I.A.No.1059 of 2013 by

waiving the condition for pre-deposit in terms of Section 21 of the Recovery of the Debts Due to Banks and Financial Institutions Act, 1993, for preferring the Appeal against order dated 07.09.2007 in O.A.No.338 of 2001 on the file of the Debt Recovery Tribunal, Bangalore.

For Petitioners : Mr.Biman
for M/s.Rugan and Arya
For 2nd Respondent: Ms.K.Jaya Ganga
for M/s.Ananda Gomathy

ORDER

(Order of the Court was made by **Mr.MANIKUMAR, J.**)

Challenge in this Writ Petition is to the order made in I.A.No.1059/2013 in AIR.No.277 of 2008 dated 03.04.2014 on the file of the Debt Recovery Appellate Tribunal, Chennai.

2. Material on record discloses that ASREC India Limited, Andheri (East), Mumbai, has filed Original Application in O.A.No.338/2001 on the file of the Debt Recovery Tribunal, Bangalore, for recovery of Rs.6,21,69,105/-. Final order has been passed on 17.12.2007. Being aggrieved, the Writ Petitioner has filed an appeal before the Debt Recovery Appellate Tribunal, Chennai.

Along with the Appeal, I.A.No.1059/2013 has been filed for waiver of the Deposit under Section 21 of the Recovery of Debts Due Banks and Financial Institutions Act, 1993.

3. After considering the contention of the petitioner, on the prayer stated supra, vide proceedings dated 03.04.2014 in I.A.No.1059/2013, the Debt Recovery Appellate Tribunal at Chennai passed the following Orders:

"The petitioners are directed to deposit a sum of Rs.3,05,84,533/- into this Tribunal on or before 5.5.2014. In the event, the said deposit is not made into this tribunal on or before 5.5.2014 this IA shall stand automatically dismissed."

4. Perusal of the order makes it clear that in the event of the deposit not made on or before 05.05.2014, the interim application shall stand automatically dismissed.

5. Admittedly, the Writ Petitioners have not deposited the

amount as ordered and by this time, I.A.No.1059/2013 could have been dismissed.

6. By inviting the attention of this Court, the manner in which O.A.338/2001 has been disposed of, a contention has been made for reduction of the quantum of pre-deposit to 25% of the amount determined by the Tribunal, instead of 50%. A sum of Rs.3,05,84,553/- has been directed to be deposited.

7. Going through the material on record, as well as the averements made in the supporting affidavit, we are of the view that the petitioners have not made out a strong case for reduction of the quantum of pre-deposit. In addition to the above, the learned Counsel for the respondents submitted that Rs.3,05,84,553/-, being 50% of the amount determined was based on the claim in the year 2007, and therefore, at this length of time, after a lapse of 15 years, reduction, if any to be made, would not be in the interest of justice. Therefore, for the reasons stated supra, the petition is liable to be dismissed.

8. In the result, the Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

(S.M.K.J.,) (M.G.R.J.,)

21.12.2016

Index:Yes/No

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To

The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.

S.MANIKUMAR, J
and
M.GOVINDARAJ, J.
tsi

W.P.No.28884 of 2014

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