

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/9/2017

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.10541 of 2017

The United Fisheries
Partnership Firm
rep. By its Partnership
No.26-32, G.A.Road
Madras 600 021.

... Petitioner

Vs

1. The Jammu & Kashmir Bank Ltd
rep. By its Manager
190 Anna Salai
Thousand Lights
Madras 600 006.

2. Mr.R.Anton

3. Mr.V.Rathnasamy Mascarenhas

4. Mr.V.Thangaih @ Jabamalai Mascarenhas

5. Mrs.Rosylyn Thangiah Mascarenhas

6. Mr.R.Sesu Alangaram

7. Mr.R.Alphones

8. Mr.A.Christu Raj

9. Mr.Dhanabal

10. Mr.J.Arul John Britto

11. Debts Recovery Appellate Tribunal
rep. Through its Registrar
Ethiraj Salai
Egmore
Chennai 600 008.

...Respondents

(Respondents 2 to 8 - given up)

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of certiorarified mandamus to call for the records relating to impugned order dated 9/3/2017, passed in I.A.No.404 of 2017 in A.I.R.No.743 of 2015, pending before the Debts Recovery Appellate Tribunal, Chennai and quash the same and directing the second respondent to waive the pre-deposit and to entertain the Appeal in AIR No.743 of 2015.

For Petitioner ... Ms.B.Manjula

For respondent ... Mr.J.Senthil Kumar
for R.1.

R.R.2 to 8 - given up

No appearance for R.R.9 & 10

R.11 - Tribunal

O R D E R

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

Order impugned in the instant writ petition is as follows:-

"I.A.No.971/2015:- Hearing on I.A.971/2015 application for condonation of delay of 10 days in filing of appeal. Cause of delay is shown to be a communication gap between the Postal agency and the appellant and also some negligence due to lack of knowledge. Nothing is on record to controvert the grounds. In view of the fact that appellant is keen and willing to make submissions on merits of the case, hence in facts and circumstances of this matter, appellant deserves for an opportunity of hearing on merits. Hence delay is condoned. I.A.971/2015 is allowed.

I.A.No.404/2017: Heard on I.A.No.404 of 2017 application for waiver.

Appellant is challenging the orders dated 28/7/2015 of DRT-I, Chennai, along with OA of the Bank for recovery of Rs.37,37,912/-. Learned counsel submits that DRT has not given proper opportunity of hearing to her. Considering the provisions of Section 21 of RDDB & FI Act, DRAT cannot entertain the appeal without ensuring the pre-deposit of minimum 25% of the amount. In my opinion also, no case of full waiver is made out nor it is in compliance of the Tribunal also.

Accordingly, appellant is directed to make a pre-deposit of Rs.10 lakhs within four weeks. I.A.No.404/2017 is disposed.

List for confirmation of pre-deposit on 12/4/2017."

2. On behalf of the first respondent Bank, counter has been filed.

3. On this day, when the matter came up for hearing, Ms.B.Manjula, learned counsel for the petitioner seeks permission of this Court, to withdraw the writ petition. Permission is granted.

4. The writ petition is dismissed as withdrawn. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Registrar
Debts Recovery Appellate Tribunal
Ethiraj Salai
Egmore
Chennai 600 008.

2. The Manager
Jammu & Kashmir Bank Ltd
190 Anna Salai
Thousand Lights
Madras 600 006.

+ 1 cc to Mr. J. Senthilkumar, Advocate Sr.67865
+ 1 cc to Mr. Rathina Asohan, Advocate Sr.68329

W.P.No.10541 of 2017

SKS(CO)
EU(23/10/2017)