

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.3.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

Writ Petition No.4495 of 2017

The Sri Ganapathy Mills Co. Ltd.
rep. by its Whole Time Director R.Karthikeyan
Sankar Nagar PO
Thalaiyuthu
Tirunelveli District - 637 357.

..Petitioner

Vs.

- 1.Debt Recovery Tribunal
6th Floor, Spencer Towers I
Anna Salai
Chennai 600 002.
- 2.Debts Recovery Appellate Tribunal
4th Floor, Indian Bank Circle Office
55, Ethiraj Salai
Chennai 600 008.
- 3.Kotak Mahindra Bank Limited
Ceebros Centre, 39, I Floor
Montieth Road, Egmore
Chennai 600 008.

..Respondents

Petition under Article 226 of the Constitution of India
praying for a writ of Certiorarified Mandamus to call for the
records relating to the order dated 09.02.2017 made in
M.A.No.125 of 2015 on the file of the second respondent and to
quash the same and to direct the second respondent to grant six
months time to deposit a sum of Rs.40 Lakhs for complying the
order dated 09.02.2017.

For Petitioner : Ms.G.Meera
For M/s. A.K.Mylsamy & Associates

For Respondent-3 : Mr.V.Venkatasalam

O R D E R

(Made by the Hon'ble Acting Chief Justice)

The petitioner seeks a writ of Certiorarified Mandamus calling for the records relating to the order dated 09.02.2017 made in M.A.No.125 of 2015 on the file of the second respondent and to quash the same and to direct the second respondent to grant six months time to deposit a sum of Rs.40 Lakhs for complying the order dated 09.02.2017.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the third respondent Bank.

3. It appears that the petitioner committed default in repayment and therefore, the third respondent Bank initiated proceedings for recovering the amount from the petitioner. Pursuant to the exparte order passed by the first respondent in O.A.No.309 of 2004 and the issue of demand notice to the petitioner, the petitioner filed an application in M.A.No.10 of 2015 before the first respondent to condone the delay of 166 days in filing the application to set aside the ex parte order passed in O.A. The Tribunal passed a conditional order to deposit a sum of Rs.2,39,10,900/- on or before 14.6.2015. Aggrieved by the said order, the petitioner filed M.A.No.125 of 2015 before the second respondent, wherein, the second respondent passed a conditional order directing the petitioner to deposit a sum of Rs.100.00 Lakhs to condone the delay of 166 days in filing the petition to set aside the exparte order and also permitted the third respondent Bank to receive the amount of pre-deposit of Rs.60.00 Lakhs made by the petitioner. Therefore, the petitioner filed I.A.Nos.48 and 49 of 2017 before the second respondent to reopen its conditional order and to modify the order to deposit Rs.40.00 Lakhs, taking into consideration the amount of Rs.60.00 Lakhs already deposited. Again, the petitioner filed an application seeking to fix a date for complying with the condition to deposit Rs.40.00 Lakhs. Therefore, the second respondent holding that the petitioner had not deposited the amount within one month, directed the petitioner to deposit the amount of Rs.40.00 Lakhs within one week from the date of that order. Aggrieved by the said order, the petitioner has filed this writ petition.

4. When the matter is taken up for hearing, the learned counsel for the petitioner produced two demand drafts totalling to a sum of Rs.40.00 Lakhs. Therefore, the petitioner is directed to deposit the said demand drafts with the Debts Recovery Appellate Tribunal, in compliance of the conditional order passed by the Debts Recovery Appellate Tribunal for condoning the delay. On such deposit, the Debts Recovery

Tribunal shall condone the delay in filing the petition to set aside the exparte order and dispose of O.A., after hearing both parties, as early as possible. The third respondent Bank is permitted to withdraw the amount that would be deposited by the petitioner before the Debts Recovery Appellate Tribunal.

The writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, WMP No.4720 of 2017 is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

kpl

To

- 1.Debt Recovery Tribunal
6th Floor, Spencer Towers I
Anna Salai
Chennai 600 002.
- 2.Debts Recovery Appellate Tribunal
4th Floor, Indian Bank Circle Office
55, Ethiraj Salai
Chennai 600 008.

+1cc to M/S. A.K. Mylsamy, Associates Sr. 14428/17

W.P.No.4495 of 2017

AK (CO)
VR(22/03/2017)

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