

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.6.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.12848 of 2017

M.N.Chandramohan ... Petitioner

Vs.

Union Bank of India
rep. by its Manager
Mylapore Branch
86, P.S.Sivasami Salai
Chennai 600 004. ... Respondent

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the order of the Debt Recovery Appellate Tribunal, Chennai, in I.A.No.495 of 2017 in AIR 61/2016 and quash its order dated 28.3.2017 and further direct the Debt Recovery Appellate Tribunal, Chennai to entertain the appeal of the petitioner by waiver of the pre-deposit condition.

For Petitioner : Mr.S.Balaji

For Respondent : Mr.S.Parthasarathy
No Appearance

O R D E R

(Made by Huluvadi G.Ramesh,J)

Assailing the order of the Debts Recovery Appellate Tribunal, directing the petitioner to make pre-deposit of Rs.42.00 Lakhs, for entertaining the appeal and applications, the petitioner has come up with the above writ petition.

2. The respondent Bank has filed O.A. for recovery of a sum of Rs.1.67 Crores in the year 2011. An ex parte order was passed

on 19.9.2014. The petitioner filed applications to condone the delay in filing the application to set aside the exparte order. The Debts Recovery Tribunal allowed the applications on condition to pay Rs.50.00 Lakhs within a stipulated period. Challenging the said order, the petitioner filed an appeal, along with applications to condone the delay and for waiver. The Debts Recovery Appellate Tribunal directed the petitioner to make pre-deposit of Rs.42.00 Lakhs within a stipulated period. Aggrieved by the said order, the petitioner has come up with the above writ petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank.

4. As per Section 21 of the Recovery of Debts due to Banks and Financial Institutions Act, pre-deposit is mandatory for entertaining an appeal by the Debts Recovery Appellate Tribunal and that the Debts Recovery Appellate Tribunal cannot entertain an appeal filed by the aggrieved person without pre-deposit of 50% of the debt amount, which can be reduced to 25%. Therefore, the Debts Recovery Appellate Tribunal directed the petitioner to pay Rs.42.00 Lakhs within the stipulated time.

5. In view of the fact that condition of pre-deposit of the debt amount is mandatory and taking note of the submission made by the learned counsel for the petitioner, the order passed by the Debts Recovery Tribunal is stayed subject to the condition that the petitioner shall deposit a sum of Rs.25.00 Lakhs (Rupees twenty five lakhs only) within a period of six weeks from today. Accordingly, the order of the Debts Recovery Appellate Tribunal stands modified to the limited extent.

The writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, WMP No.13700 of 2017 is closed.

Sd/-
सत्यमेव जयते

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpl
To

1.The Manager
Union Bank of India
Mylapore Branch
86, P.S.Sivasami Salai
Chennai 600 004.

2.Debts Recovery Appellate Tribunal,
Chennai.

+1cc to M/S.S.Balaji, Advocate Sr.41025

W.P.No.12848 of 2017.

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srg 22/06/2017



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