

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM:

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

W.P.No.23912 of 2017
and
WMP Nos.25173 & 25174 of 2017

K.Thiyagarajan
Sole Proprietor - M/s.Chennai Trading Corporation,
No.36/46, 48th Street,
9th Avenue, Ashok Nagar,
Chennai - 600 083. ... Petitioner

vs.

1. The State Bank of India,
Rep. by its Chief Manager,
Saligramam Branch, No.49, Arcot Road,
Saligramam, Chennai - 600 093.
2. The Debts Recovery Appellate Tribuna,
4th Floor, Indian Bank Circle Office,
55, Ethiraj Salai,
Chennai - 600 008. ... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, calling for the records of the 2nd respondent, pertaining to the impugned proceedings in AIR No.601/2016 dated 09.08.2017, quash the same.

For Petitioner : Mr.S.Raveekumar

ORDER

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

Proceedings in AIR No.601 of 2016 dated 09.08.2016 of the Debts Recovery Appellate Tribunal, Chennai, impugned in this writ petition, is a direction, in the waiver petition I.A.No.223 of 2017 by which, having noticed that O.A.No.170 of 2012 filed by State Bank of India, Chennai, against the writ petitioner/defendant therein, for a recovery of sum of Rs.6,65,50,893.01p, has been ordered, for Rs.3,19,45,640/-, and by observing that Debts Recovery Appellate Tribunal, Chennai cannot entertain an appeal, without making any statutory deposit, as provided therefor, in Section 21 of the

Recovery of Debts Due to Bank and Financial Institutions Act, 1993, directed the appellant therein/writ petitioner to make pre-deposit of Rs.80 Lakhs, with the Registrar of the Debts Recovery Appellate Tribunal, Chennai, out of which Rs.40 Lakhs, to be deposited within four weeks from 09.08.2017, as first payment and the second part of the payment of Rs.40 Lakhs to be remitted, within another four weeks thereafter. Vide proceedings dated 09.08.2017, the Debts Recovery Appellate Tribunal, Chennai, further observed that in the event of failure, to remit the amount, as directed, appeal in AIR No.601 of 2016, would stand automatically dismissed without any further reference to the tribunal. For confirmation of pre-deposit of the first part of payment, Debts Recovery Appellate Tribunal, Chennai, has directed AIR No.601 of 2016 and I.A.No.223 of 2017, filed for waiver, to be posted on 06.09.2017.

2. Though, Mr.S.Raveekumar, learned counsel for the petitioner made submissions assailing the correctness of the proceedings dated 09.08.2017, made in I.A.No.223 of 2017 in AIR No.601 of 2016 dated 09.08.2017, on the file of Debts Recovery Appellate Tribunal, Chennai, when the attention was drawn to Section 21 of the Recovery of Debts Due to Bank and Financial Institutions Act, 1993, and the judgment of the Hon'ble Supreme Court in Narayan Chandra Ghosh vs. Uco Bank & Ors. reported in AIR 2011 SC 1913, wherein, the Hon'ble Supreme Court, considered a parameteria provision, provisio to Section 18 of the SARFAESI Act, 2002, learned counsel for the petitioner prayed for extension of time to remit pre-deposit of Rs.80 Lakhs with the Registrar of Debts Recovery Appellate Tribunal, Chennai. Considering the financial difficulties faced by the writ petitioner, he submitted that for payment of the first part of Rs.40 Lakhs, with the Registrar of Debts Recovery Appellate Tribunal, Chennai, three weeks time be granted from today. He further submitted that the second part of the payment of Rs.40 Lakhs would be paid within four weeks thereafter.

3. Placing on record the abovesaid submission, we are not inclined to interfere with the proceedings dated 09.08.2017 in I.A.No.223 of 2017 in AIR No.601 of 2016, on the file of Debts Recovery Appellate Tribunal, Chennai, except to modify and extend the period of pre-deposit, as prayed for.

4. Pre-deposit order is confirmed. Time is extended for the first part of payment of Rs.40 Lakhs, with the Registrar of Debts Recovery Appellate Tribunal, Chennai, by three weeks, from today. The second part of the remittance of Rs.40 Lakhs with the Registrar of Debts Recovery Appellate Tribunal, Chennai, shall be made, within four weeks, thereafter.

5. With the above modification, the writ petition is disposed of. It is made clear that if remittance as consented is not made, order of this Court made in the instant writ

petition would stand rescinded, without further reference to this Court. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Manager,
State Bank of India,
Saligramam Branch,
No.49, Arcot Road,
Saligramam, Chennai - 600 093.

2. The Debts Recovery Appellate Tribunal,
4th Floor, Indian Bank Circle Office,
55, Ethiraj Salai,
Chennai - 600 008.

+1cc to Mr.S.Ravee Kumar, Advocate, S.R.No.64176

W.P.No.23912 of 2017
and

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BR(CO)
GN(06/09/2017)

सत्यमेव जयते

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