

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.26937 of 2017

and

WMP No.28722 of 2017

1. Subramanian

2. S.Venkatachalapathi ... Petitioners

vs.

1. The Registrar,
Debt Recovery Appellate Tribunal,
Chennai.

2. The Assistant General Manager
cum Authorised Officer,
Indian Bank,
Dharmapuri Branch, Dharmapuri-636 701

3. R.Durairaj ... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorarified Mandamus, calling for the records pertaining to the order dated 12.09.2017 passed in AIR (SA) 66 of 2017 by the 1st respondent and quash the same and consequently direct the 1st respondent to take the appeal on the file without insisting for any pre-deposit.

For Petitioners : Mr.N.Senthil Kumar

ORDER

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

Borrower has challenged an interim order in I.A.No.717 of 2017 in AIR No.66 of 2017 dated 12.09.2017 on the file of Debts Recovery Appellate Tribunal, Chennai, by which, the appellate forum, has directed the writ petitioners to make pre-deposit of Rs.51 lakhs with the Registry of the tribunal, within a period of four weeks from the date of the said order, failing which, the appeal would stand dismissed automatically, without any reference to the tribunal. Vide the order dated 12.09.2017, DRAT, Chennai has directed its registry to list I.A.No.717 of 2017 in AIR No.66 of 2017, for confirmation of pre-deposit.

2. Earlier, when a petition seeking permission to prefer a writ petition, jointly, came up for hearing, we permitted the petitioners to do so, on payment of separate court fee. However, taking note of the direction of the Debts Recovery Appellate Tribunal, Chennai, to the Registry to list the matter on 10.10.2017, we directed the learned counsel for the petitioners to furnish the details, as to whether any order has been passed by the DRAT in I.A.No.717 of 2017 and AIR No.66 of 2017.

3. Reverting, Mr.N.Senthil Kumar, learned counsel for the petitioners, submitted that AIR No.66 of 2017 was listed before DRAT, Chennai on 12.10.2017 and that the appeal was dismissed with an understanding that the matter may be reviewed and taken up, as and when directed by the Hon'ble High Court.

4. Record of proceedings of the DRAT, Chennai dated 12.10.2017 in AIR No.66 of 2017, is reproduced hereunder.

"Ld. Counsel Mr.J.Deliban for Appellant Present.

Ld. Counsel Ms.R.Thirushuli for R1 present.

Ld. Counsel Ms.M.Sudha for R2 present.

Appellant counsel submits that he has not complied with the orders on pre-deposit and has preferred a writ before Hon'ble High Court and the same is coming up for hearing tomorrow.

In view of the fact that DRAT cannot entertain any Appeal filed by any aggrieved person unless and until the Appellant complies with the formalities on pre deposit.

As pre-deposit is not complied with, hence appeal stands dismissed for want of compliance on pre-deposit with an understanding that matter may be reviewed and taken up as and when directed by Hon'ble High Court."

5. As appeal itself has been dismissed on 12.10.2017, for the reasons stated supra, challenge to the interim order made in I.A.No.717 of 2017 in AIR No.66 of 2017 dated 12.09.2017, does not survive. Hence, the instant writ petition is dismissed, giving liberty to the writ petitioners to challenge the order made in AIR No.66 of 2017 dated 12.10.2017, on all legal and factual issues. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ars

To

1. The Registrar,
Debt Recovery Appellate Tribunal,
Chennai.

2. The Assistant General Manager
cum Authorised Officer,
Indian Bank,
Dharmapuri Branch, Dharmapuri-636 701

+1 CC to Mr.N.Senthil Kumar, Advocate Sr.No.73848

W.P.No.26937 of 2017
and
WMP No.28722 of 2017

KP(13.11.2017)

WEB COPY