



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD) No.15948 of 2015 &
M.P. (MD) .No.2 of 2015

1.M.Palanikumar
2.P.Selvi
3.M.Virumayee Ammal

... Petitioners

Vs.

1. The Debt Recovery Appellate Tribunal,
Anna Salai,
Chennai.

2. The Authorized Officer,
State Bank of India,
SME Branch, Kappalur,
D-26, SIDCO Industrial Estate,
Thanakkankulam,
Madurai-06.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in the proceedings I.A.No.131 of 2015 in AIR (SA)-672/2014) dated 08.07.2015 and quash the same as it is illegal and arbitrary and without any legal basis and consequently directing the 1st respondent to number the Appeal filed by the petitioners without insisting the additional deposit of 25% as referred in the impugned order and decide the appeal on merits.

For Petitioner	: Mr.O.Chandran
For Respondents	: Mr.AR.M.Ramesh

O R D E R**[Order of the Court was made by T.S.SIVAGNANAM, J]**

This writ petition has been filed to call for the records pertaining to the impugned order passed by the 1st respondent in the proceedings I.A.No.131 of 2015 in AIR (SA)-672/2014) dated 08.07.2015 and quash the same and consequently directing the 1st respondent to number the Appeal filed by the petitioners without



insisting the additional deposit of 25% as referred in the impugned order and decide the appeal on merits.

2. The petitioners are borrowers and they have approached this Court challenging an order dated 08.07.2015, passed by the first respondent, the Debt Recovery Appellate Tribunal, Chennai, wherein the petitioners challenged the order of the Debts Recovery Tribunal directing the petitioners to deposit Rupees two Crores on or before 05.02.2015. The Debts Recovery Appellate Tribunal after taking note of the submissions made by the learned counsel for the petitioners that they have already paid Rs.2.63 Crores, allowed the application in part and directed to deposit 25% of Rs.6,30,51,872/-, within a period of 8 weeks from the date of receipt of a copy of this order, failing which the appeal itself stands dismissed.

3. As per provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, for an appeal to be entertained by the Debts Recovery Appellate Tribunal, mandatory pre deposit has been introduced in the statute and there is no discretionary vested with the Appellate Tribunal to reduce the amount.

4. We find in the impugned order itself that the bank has not disputed that the petitioners have remitted a sum of Rupees 2.63 Crores and they wanted 50% of the amount to be deposited. Considering the fact that the writ petition is pending from the year 2015 and the bank has not filed any counter affidavit, we deem it fit to grant some indulgence, so that the matter can be decided on merits in due course. Accordingly, the writ petition is partly allowed and the petitioners are directed to deposit 10% of Rs.6,30,51,872/-, within a period of 12 weeks from the date of receipt of a copy of this order. If the condition is complied with, the Debts Recovery Appellate Tribunal, Chennai, is directed to decide the appeal on merits and in accordance with law. Upon failure of the petitioners to comply with the condition, within the time stipulated, the benefit of this order would not enure to the petitioners and the writ petition would stand automatically dismissed without reference to this Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

1. The Debt Recovery Appellate Tribunal,
Anna Salai,
Chennai.

2. The Authorized Officer,
State Bank of India,
SME Branch, Kappalur,
D-26, SIDCO Industrial Estate,
Thanakkankulam, Madurai-06.

+ 1 CC TO Mr.O.CHANDRAN, ADVOCATE IN SR No. 20165

JIKR

TE/MMS : 04/05/2017 : 3P/4C

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