

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.20970 of 2018 and

W.M.P.No. 24621 of 2018

1. A.P.Subramanien
2. Mrs.S.Janaki .. Petitioners

v.

1 State Bank of India
Stressed Assets Recovery Branch
377/1 Dr. Nanjappa Road
Behind N.S.Palaniappa Nursing Home
Coimbatore - 641 018

2 The Registrar
Debts Recovery Appellate Tribunal
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 issue of Writ of Certiorari to call for the records in A.I.R.No.309 of 2018, impugned order dated 18.07.2018 passed by the second respondent, the Registrar, Debt Recovery Appellate Tribunal, Chennai and quash the same.

For Petitioners : Mr.L.Shanmugasundara Perumal
for Mr.J.Vivekanandan

For Respondents : Mr.S.Sethuraman- for R1
R2 - Tribunal

O R D E R

(Order of the Court made by M.DURAI SWAMY, J.)

The petitioners have filed the above Writ Petition to issue a Writ of Certiorari to call for the records in

A.I.R.No.309 of 2018, dated 18.07.2018, passed by the second respondent and to quash the same.

2. Challenging the order passed in O.A.No.79 of 2014, on the file of the Debts Recovery Tribunal, Coimbatore, the petitioners preferred an appeal in A.I.R.No.309 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai.

3. Before the Debt Recovery Appellate Tribunal the petitioners have not filed any Waiver Application. The Original Application was filed before the Debts Recovery Tribunal by the respondent-bank claiming a sum of Rs.2.03 crores. Therefore, the Debt Recovery Appellate Tribunal directed the petitioners to make a pre-deposit of Rs.1 crore. Further, the Debt Recovery Appellate Tribunal made it clear that failure to make the pre-deposit would result in automatic dismissal of the appeal. Challenging this order, the petitioners have filed the above Writ Petition.

4. When the matter was taken up for hearing on 01.11.2018, the learned counsel on either side submitted that the Debt Recovery Appellate Tribunal had dismissed the appeal in A.I.R.No.309 of 2018 on 26.09.2018 observing that this court had disposed of the present Writ Petition i.e. W.P.No.20970 of 2018 on 14.08.2018. The learned counsel appearing for the petitioners made a representation that the petitioners have filed an application to restore the appeal and sought an adjournment enabling the petitioners to get the appeal restored. Therefore, this court adjourned the matter to 29.11.2018 and also made it clear that if the appeal is not restored, this court would proceed with the Writ Petition and decide the same on merits.

5. When the matter is taken up for hearing today, the learned counsel appearing for the petitioners submitted that the application filed by the petitioners, to restore the appeal has not yet been numbered till today.

6. The learned counsel appearing for the respondent-bank submitted that since there is no appeal pending before the Debt Recovery Appellate Tribunal, the Writ Petition filed in relation to pre-deposit has become infructuous.

7. We accept the submission made by the learned counsel appearing for the respondent-bank. Since no appeal is pending as of today before the Debt Recovery Appellate Tribunal, the present Writ Petition challenging the order passed by the Debt Recovery Appellate Tribunal in relation to pre-deposit has become infructuous. Accordingly, the Writ Petition is

dismissed as infructuous. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Rj

To

1 State Bank of India
Stressed Assets Recovery Branch
377/1 Dr. Nanjappa Road
Behind N.S.Palaniappa Nursing Home
Coimbatore - 641 018

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

+1 cc to Mr.L.Shanmuga Sundara Perumal, Advocate Sr.No.82289

+1 cc to Mr.S.Sethuraman, Advocate Sr.No.81918

W.P. No.20970 of 2018 and
W.M.P.No.24621 of 2018

SUN(CO)
CSL/29.11.2018

सत्यमेव जयते

WEB COPY