

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2018

CORAM :

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

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.21460 of 2018 and  
W.M.P.No.25211 of 2018

1 K.Anandapandi  
2 K.Manosakthi  
3 K.Matcharani

.. Petitioners

v.

1 The Authorized Officer  
Housing Development Financing Corporation Limited  
760, Annasalai  
Chennai - 600 002

2 Dr. B.Banumathi

3 Dr. V. Balasubramanian

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records relating to the order dated 23.07.2018 in AIR (SA) No.291 of 2015 passed by the Debt Recovery Appellate Tribunal, Chennai and quash the same and direct the DRAT, Chennai to take the appeal on file.

For Petitioner : MrD.Venkatachalam

For Respondents: Mr.K.J.Parthasarathy - for R1  
R2 & R3 - Not ready in notice

O R D E R

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

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 23.07.2018 made in AIR (SA) No.291 of 2015, passed by the Debt Recovery Appellate Tribunal, Chennai, to quash the same and direct the Tribunal to take the appeal on file.

2. Challenging the order passed by the Debts Recovery Tribunal, Madurai, in S.A. No.116 of 2010, the petitioners have filed an appeal in AIR (SA) No.291 of 2015 on the file of the Debt Recovery Appellate Tribunal, Chennai.

3. The Debts Recovery Tribunal, Madurai, passed an order on 09.04.2015, which was challenged by way of an appeal before the Debt Recovery Appellate Tribunal, Chennai on 08.05.2015. The petitioners have also filed a Waiver Application on 01.09.2017. The papers were returned by the Registry of the Debt Recovery Appellate Tribunal and there was a delay of 814 days in re-presenting the papers.

4. Though the petitioners have given acceptable reasons for the delay of 814 days in re-presenting the papers, the Debt Recovery Appellate Tribunal had dismissed the petition finding that the petitioners have not explained the reasons for the delay in a proper manner.

5. However, we are convinced with the reasons stated in the affidavit filed in support of the petition.

6. In these circumstances, in the interest of justice, in order to give an opportunity to the petitioners to prosecute the matter, we are inclined to condone the delay of 814 days in re-presenting the papers.

7. Accordingly, the impugned order passed by the Debt Recovery Appellate Tribunal, Chennai in AIR (SA) No.291 of 2015 is set aside and the delay of 814 days in re-presenting the papers, stands condoned. The Debt Recovery Appellate Tribunal, Chennai is directed to proceed with the appeal filed by the petitioners in accordance with the provisions of the SARFAESI Act. The writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Rj

To

1.The Authorized Officer  
Housing Development Financing Corporation Limited  
760, Annasalai  
Chennai - 600 002

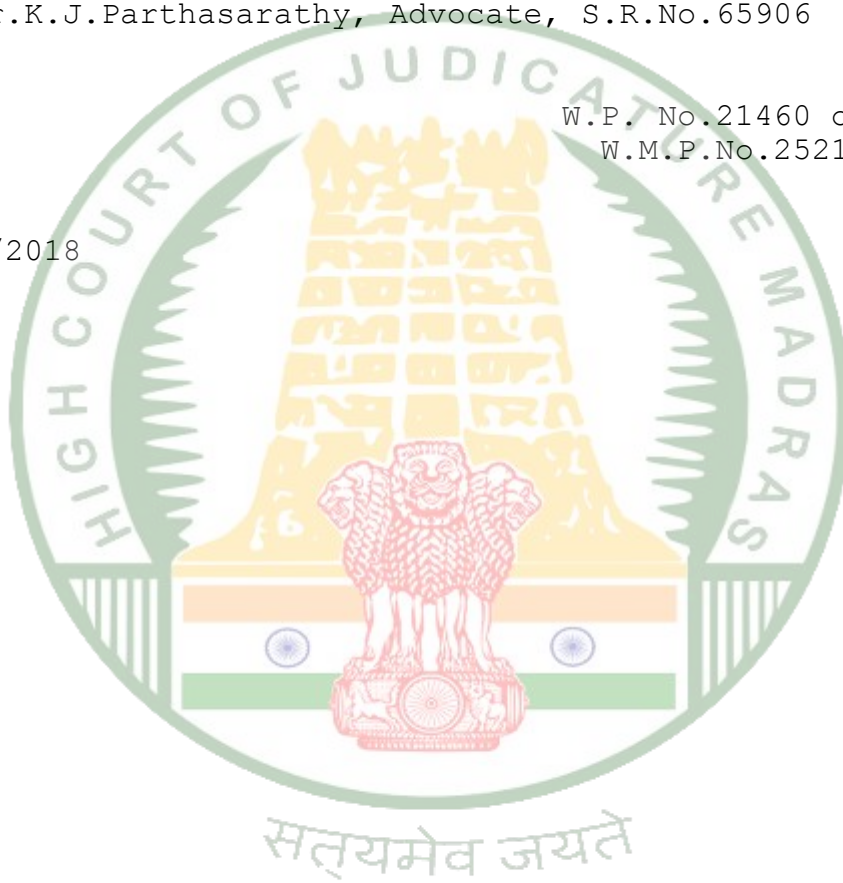
2.The Debt Recovery Appellate Tribunal,  
Chennai.

+lcc to M/s.V.Vijayasamy, Advocate, S.R.No.65865  
+lcc to Mr.K.J.Parthasarathy, Advocate, S.R.No.65906

W.P. No.21460 of 2018 and  
W.M.P.No.25211 of 2018

SS(CO)

rrs 08/10/2018



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