

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.12110 of 2018
and
WMP Nos.14120 & 14121 of 2018

1. T.Bhagyalakshmi
2. T.Varun Kumar ... Petitioners

vs.

The Authorised Officer,
Standard Chartered Bank,
No.58, Armenian Street,
Chennai - 600 001. Respondent

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records pertaining to the order dated 11.04.2018 in I.A.No.410 of 2018 in AIR (SA) No.192 of 2018, passed by the Debts Recovery Appellate Tribunal, Chennai and quash the same as illegal, arbitrary and against the principle of motion of law.

For Petitioners: Mr.G.Senthilkumar

For Respondent : Mr.MS.Murali
for M/s.R&P Partner

ORDER

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

Order impugned in the instant writ petition is as follows:
AIR (SA) 192/2018 (S.A.No.16/2015, on the file of DRT-II, Chennai)

Proceedings dated 11.04.2018

Ld. Counsel Mr.S.Sethuraman for Appellant present.

Ld. Counsel Mr.V.Jayachandran for Respondent bank present.

Heard IA No.410/2018, which is an application for waiver.

Appellant has challenged the order dated 05.04.2018 passed by DRT-II, Chennai in SA 16/2015, by which SA was dismissed.

Record reveals that bank has issued notice dated 20.09.2011 under Section 13(2) of SARFAESI Act demanding a sum of Rs.2.62 Crores. Appellant counsel submits that prior to 2015, Appellant/borrower had paid substantial amount towards the loan account in addition to a sum of Rs.76 Lakhs which is lying with the Registrar, DRAT in previous Appeal No.74/2015, and according to bank the due amount is only Rs.1.76 Crores as on December, 2015.

Respondent counsel submits that this is a clear violation of order of this Tribunal itself, because impugned order is nothing but a reflection of non compliance of order of this Tribunal. Ld. Counsel further submits that due amount as on December, 2015 was not Rs.1.76 Crores, but was Rs.2.72 Crores for two different loan accounts. the property in question has been sold, sale certificate issued and Registration has also been completed in favour of auction purchaser and nothing remains except delivery of possession only.

Ld. Counsels for parties fairly concedes that borrower and the present litigant virtually belong to the same family as they are father, son etc.

Whatever has been averred by the parties will be heard, considered and decided at the time of final hearing of the case, further, in view of the fact that DRAT cannot entertain any Appeal unless and until the Appellant complies with the formalities on pre-deposit upto 50% of debt amount, which can be reduced to 25%, but not less than 25% in any case and for the purpose of this appeal, considering the debt amount to be Rs.2.62 Crores and taking into consideration the previous deposits made in bank from time to time. I hereby direct the Appellant to make pre-deposit of Rs.1.15 Crores with the Registrar of the Tribunal, out of which Rs.57.50 Lakhs to be paid by the Appellant within four weeks from today as 1st part of payment and 2nd part of payment of Rs.57.50 Lakhs will be paid by another four weeks thereafter.

On payment of first instalment of Rs.57.50 Lakhs, then the Appellant is entitled for protection from dispossession from the payment date.

In the event of failure in complying with the order on pre-deposit, the Appeal shall stand dismissed automatically for want of mandatory compliance. IA is disposed of.

List for confirmation of pre-deposit of 1st part of payment of Appellant by 09.05.2018."

2. Both the learned counsel for the parties submitted that condition imposed, has been complied with and that AIR SA No.192 of 2018 (SA No.16 of 2015) on the file of Debts Recovery Tribunal-II, Chennai, is listed today for confirmation of deposit. Learned counsel for the parties further submitted that nothing survives in this writ petition, for adjudication.

3. Placing on record the above, instant writ petition is dismissed. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ars

To

The Debts Recovery Appellate Tribunal,
Chennai.

+lcc to Mr.S.Sethuraman, Advocate Sr.35761

+lcc to M/S.R&P. Partners, Advocate Sr.36030

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srg 18/06/2018