

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

CORAM

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

THE HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.No.24569 of 2018

N.Sharadha

.. Petitioner

Vs.

- 1 Indian Overseas Bank
Rep. by its Authorised Officer
Spencer Plaza Branch
Phase III, Spencer Plaza
No.769, Anna Salai
Chennai - 600 002.
- 2 The Registrar
Debt Recovery Appellate Tribunal
Chennai - 600 008.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records that culminated in the order dated 30.8.2018 passed by the second respondent in I.A. No.206 of 2018 in AIR No.854 of 2017 and quash the same and consequently direct the second respondent to treat the amount of Rs.1.36 crore deposited by the petitioner as pre-deposit to entertain/register the Appeal AIR.No.854 of 2017.

For Petitioner

: Mr.P.V.Balasubramanian
for Mr.T.Mahendran

For Respondents

: Mr.F.B.Benjamin George
for 1st respondent

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

Heard learned counsel for both sides.

2. The case of the learned counsel for the petitioner is that the petitioner has made a pre-deposit of Rs.1.36 crores, which is seen from the order of this Court dated 2.3.2018 in W.P.No.1399 of 2018. He placed reliance on paragraph (12) of the order dated 2.3.2018, which reads thus:

"12. Sum claimed is Rs.5,44,04,563/- with interest, as stated supra. 25% of the debt so due, amounts to Rs.1.36 Crores. Writ petitioner is stated to have deposited Rs.60 Lakhs, before the Debts Recovery Tribunal, and the balance amount representing 25% of the debt due, as per the claim amount determined, is Rs.76 Lakhs."

3. It is an admitted fact that pursuant to the said order dated 2.3.2018, the petitioner deposited Rs.1.36 crores, which was 25% of the sum claimed.

4. The grievance of the learned counsel for the petitioner is that thereafter the Debt Recovery Appellate Tribunal has directed the petitioner to again deposit a sum of Rs.1.11 crores. He submitted that in view of the order of this Court dated 2.3.2018, the petitioner ought not to have been called upon to deposit a sum of Rs.1.11 crores by way of pre-deposit.

5. The learned counsel for the first respondent bank fairly submitted that, in view of the facts and circumstances of this case, he would not insist the petitioner to deposit a sum of Rs.1.11 crores before the Debt Recovery Appellate Tribunal and he submitted that the Appellate Tribunal may be directed to decide the appeal as expeditiously as possible.

6. In view of the facts and circumstances of this case and the consent given by the learned counsel for the first respondent bank, the order dated 30.8.2018 directing the petitioner to deposit a further sum of Rs.1.11 crores is set aside. The appeal before the Debt Recovery Appellate Tribunal be numbered and it be disposed of on merits as expeditiously as possible.

The writ petition is allowed in the above terms. No costs. Consequently, W.M.P.No.28603 of 2018 is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Authorised Officer
Indian Overseas Bank
Spencer Plaza Branch
Phase III, Spencer Plaza
No.769, Anna Salai
Chennai - 600 002.

2. The Registrar
Debt Recovery Appellate Tribunal
Chennai - 600 008.

+1cc to Mr.T.Mahendran, Advocate, S.R.No.81245(19/12/2018)

W.P.No.24569 of 2018

SPD(CO)
GSP(04/12/2018)



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