IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAISWAMY

C.R.P(PD).No.2572 of 2014
and M.P.No.1 of 2014

1.D.S.Soundararajan

2.K.Sarojini

3.S.Preamanand .. Petitioners

Vs.

1.The Authorized Officer,
Allahabad Bank,
Regional Office,
No.112, Theagaroya Road,
Chennai – 600 017.

2.K.Ravichandran

3.K.Suresh

4.M.Abdulla

5.Rajesh N.Dave

6.Badresh P.Mehta .. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 13.02.104 made in I.A.No.598 of 2010 in AIR (SA) No.296 of 2010 passed by the Debt Recovery Appellate Tribunal, Chennai.

For Petitioners : Mr.R.Manickavel

For Respondents : Mr.N.R.Rajagopalan (R1)
R1, R5 & R6 – no appearance
R2 to R4 - Not ready in notice

O R D E R

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

Challenging the order passed in I.A.No.598 of 2010 in AIR (SA) No.296 of 2010 on the file of the Debt Recovery Appellate Tribunal, Chennai. The petitioners have filed the above Civil Revision Petitions under Article 227 of the Constitution of India.

2.Challenging the order passed in S.A.No.85 of 2007 on the file of the Debts Recovery Tribunal – II, Chennai, the petitioners have preferred an appeal in AIR (SA).No.296 of 2010 before the Debt Recovery Appellate Tribunal, Chennai. In the said appeal, the petitioners have also filed an application in I.A.No.598 of 2010 for waiver of pre-deposit. The Debt Recovery Appellate Tribunal, by order dated 13.02.2014, directed the petitioners to make a pre-deposit of Rs.32,04,901/-. While arriving at the said amount, the Debt Recovery Appellate Tribunal took into consideration the amount claimed under Section 13(2) Notice, which is Rs.64,09,800.54, together with interest. The petitioners were directed to make a pre-deposit of 50% of the amount claimed in Section 13(2) notice.

3.In III proviso to Section 18 of the Securitisation And Reconstruction of Financial Asset and Enforcement of Security Interest Act, 2002 (in short "SARFAESI" Act) , the pre-deposit amount can be reduced upto 25% of the debt.

4.The learned counsel appearing for the petitioners submitted that the property belonging to the petitioners were already sold in the auction and therefore, the petitioners may be permitted to make pre-deposit of 25% of the amount claimed in Section 13(2) notice. The learned counsel also submitted that the petitioners are not in a position to make the pre-deposit of Rs.32 lakhs as ordered by the Debt Recovery Appellate Tribunal.

5.Since the petitioners have expressed some difficulty in paying the pre-deposit of Rs.32 lakhs, we are inclined to reduce the pre-deposit amount to 25% of the amount claimed in Section 13(2) notice by invoking III proviso to Section 18 of the SARFAESI Act. Accordingly, the order passed by the Debt Recovery Appellate Tribunal, Chennai is modified to the effect that the petitioners are directed to make a pre-deposit of 25% of the amount claimed in Section 13(2) notice within a period of three weeks from the date of receipt of a copy of this order. In the event of the petitioners not complying with this order, the Civil Revision Petition shall stand dismissed automatically without any reference to this Court. In the event of the petitioners making the pre-deposit as stated above, the Debt Recovery Appellate Tribunal shall number the appeal and decide the same in accordance with law.

6.With these observations, the Civil Revision Petition is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No **(V.K.T., CJ.) (M.D., J.)**
Internet : Yes **06.12.2018**
Speaking /Non Speaking Order
va

THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

va

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