

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.18007 of 2018 and
W.M.P.No.21307 of 2018

M/s.St. Marys Kalmane @ Arekal Estates
A Regd. Partnership Firm
Represented by its Managing Partner
Avinash Prabhu, Niduvale Post, Via Javali
Chikmagalur District - 577 122

.. Petitioner

Vs

- 1.State Bank of India
Represented by its Assistant General Manager
Commercial Branch
Walajapet 632 513, Vellore District
- 2.M/s. Skyline Leather Industries Ltd (In Liquidation)
Rep. by the Official Liquidator
High Court, Madras
- 3.Peter J.R. Prabhu
- 4.M/s. Skyline Construction
Rep. by its Managing Director
Having its Corporate Office at
No.80 III Cross Lavelle Road
Bangalore - 1.
- 5.The Debt Recovery Appellate Tribunal
4th Floor, Indian Ban Circle Office
55, Ethiraj Salai
Chennai - 600 008.
- 6.The Debt Recovery Tribunal - III
4th Floor, Indian Ban 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 Certiorarified Mandamus, calling for the records of the 5th respondent pertaining to the order dated 13.03.2018 in I.A.No.569/2017 in AIR 640 of 2014 and quash the same and consequently direct the 5th respondent to

take on record AIR 640/2014 register the appeal and hear the case on merits and thus render justice.

For Petitioner : Mr.AR.L.Sunderesan, Senior Counsel
for Mr.T.K.Bhaskar

For Respondents : Mr.A.V.Arun - for r1
R2 to R4 - Given up
R5 & R6 - Tribunal

O R D E R
(Order of the Court made by M.DURAI SWAMY, J.)

The above writ petition has been filed by the petitioner to issue a Writ of Certiorari Mandamus to call for the records of the 5th respondent pertaining to the order dated 13.03.2018 in I.A.No.569 of 2017 in AIR 640 of 2014, to quash the same and consequently direct the 5th respondent to take on record AIR 640 of 2014 and register the appeal and hear the case on merits.

2. Originally, the 1st respondent-Bank preferred an Original Application in O.A.No.669 of 2001 on the file of the Debts Recovery Tribunal-I, Chennai, which was subsequently transferred to the file of the Debts Recovery Tribunal-III, Chennai and re-numbered as O.A.No.187 of 2007 for the recovery of a sum of Rs.9,73,63,935.26 [Rupees nine crores seventy three lakhs sixty three thousand nine hundred and thirty five and twenty six paise only] together with interest at the rate of 14% per annum in respect of the loan amount.

3. The Debts Recovery Tribunal-III, Chennai, decreed the Original Application in O.A.No.187 of 2007 for a sum of Rs.9.73 crores on 26.02.2010.

4. Challenging the order passed by the the Debts Recovery Tribunal-III, Chennai, the petitioner preferred an appeal before the Debts Recovery Appellate Tribunal, Chennai with a delay of 1623 days.

5. On a perusal of the affidavit filed in support of the petition, it is clear that the petitioner has not explained the reasons for the delay in a proper manner.

6. It is settled position that unless a party seeking for condonation of the delay gives sufficient cause for the delay, the delay should not be condoned.

7. The ratio laid down by the Hon'ble Supreme Court of India in the judgment reported in 2015 (1) SCC 680 [H.Dohil Constructions Company Private Ltd. v. Nahar Exports Limited and another] squarely applicable to the facts and circumstances of

the present case.

8. In the case on hand, the petitioner has not explained the reasons in a proper manner. Hence, the Debts Recovery Appellate Tribunal, Chennai has rightly dismissed the petition.

9. In these circumstances we do not find any error or irregularity in the order passed by the Debt Recovery Appellate Tribunal, Chennai. The writ petition is devoid of merits and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To

1.The Debt Recovery Appellate Tribunal
4th Floor, Indian Ban Circle Office
55, Ethiraj Salai, Chennai - 600 008.

2.The Debt Recovery Tribunal - III
4th Floor, Indian Ban Circle Office
55, Ethiraj Salai, Chennai - 600 008.

+1cc to Mr.A.V.Arun, Advocate, S.R.No.66076

+1cc to Mr.T.K.Bhaskar, Advocate, S.R.No.66732

सत्यमेव जयते

W.P. No.18007 of 2018 and
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RK(CO)

rrs 12/11/2018

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