

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.12.2018

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

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. No.26490 of 2014 and
M.P.No.1 of 2014

1.C.Anandhan
2.J.Chandralekha
3.R.Sridhar

.. Petitioners

Vs.

1.The Presiding Officer,
Debt Recovery Appellate Tribunal,
Chennai.

2.The Presiding Officer,
Debts Recovery Tribunal - III,
Chennai.

3.ICICI Bank Limited,
rep by N.Chandrasekar, Manager,
West Wing, Plot No.24,
South Phase Industrial Estate,
Ambattur, Chennai - 600 058.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent in AIR No.464 of 2013 dated 18.08.2014 for pre-depositing Rs.7,00,358/- as conditional order on or before 30.09.2014 and quash the same and direct the 1st respondent to adjudicate the matter on hearing both sides in accordance with law.

For Petitioners : Mr.B.Balavijayan

For Respondents : Mr.T.Srinivasa Raghavan (R3)
R1 & R2 - Tribunal

O R D E R

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

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified mandamus to call for the records pertaining to the order passed by the 1st respondent in AIR

No.464 of 2013 dated 18.08.2014 for pre-depositing Rs.7,00,358/- as conditional order on or before 30.09.2014 and quash the same and direct the 1st respondent to adjudicate the matter on hearing both sides in accordance with law.

2.It is the case of the petitioners that they availed loan from the 3rd respondent - Bank for the purchase of vehicle. Since the petitioners had committed default in repaying the loan, the 3rd respondent filed an application in O.A.No.57 of 2012 on the file of the Debts Recovery Tribunal - III, Chennai for recovery of a sum of Rs.11,25,714/- together with interest and by order dated 30.11.2012, the Debts Recovery Tribunal allowed the O.A. Thereafter, the petitioners filed an application in M.A.No.43 of 2013 to set aside the exparte order dated 30.11.2012. The Debts Recovery Tribunal, by order dated 23.05.2013, dismissed the application. Aggrieved over the same, the petitioners filed an appeal in AIR No.464 of 2013 before the Debt Recovery Appellate Tribunal, Chennai along with an application in I.A.No.586 of 2013 for waiver of pre-deposit. The Appellate Tribunal, by order dated 18.08.2014, directed the petitioners to make a pre-deposit of Rs.7,00,358/- on or before 30.09.2014. While arriving at the said figure, the Appellate Tribunal took into consideration that a sum of Rs.14,00,715/- was due and payable by the petitioners on the date of filing of the appeal before the Debt Recovery Appellate Tribunal. Under Section 21 of the Recovery of Debts Due to the Banks and Financial Institutions Act, 1993, pre-deposit is a mandatory condition for entertaining the appeal before the Debt Recovery Appellate Tribunal. Since the petitioners have not paid any amount since 2014, we are not inclined to interfere with the order passed by the Debt Recovery Appellate Tribunal. Since a sum of Rs.14,00,715/- was due and payable by the petitioners even on the date of filing of the appeal before the Debt Recovery Appellate Tribunal, the order passed by the Debt Recovery Appellate Tribunal directing the petitioners to make a pre-deposit of Rs.7,00,358/- is just and proper.

3.For the reasons stated above, we do not find any reason to interfere with the order passed by the Debt Recovery Appellate Tribunal. The Writ Petition is devoid of merits and the same is dismissed.

4.The learned counsel appearing for the petitioners submitted that four weeks time may be granted to the petitioners to make the pre-deposit of Rs.7,00,358/- before the Debt Recovery Appellate Tribunal.

5.In view of the submission made by the learned counsel for the petitioners, we grant four weeks time, from the date of receipt of a copy of this order, to the petitioners to make the

pre-deposit of Rs.7,00,358/- before the Debt Recovery Appellate Tribunal. No costs. consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Presiding Officer,
Debt Recovery Appellate Tribunal,
Chennai.
- 2.The Presiding Officer,
Debts Recovery Tribunal - III,
Chennai.
- 3.The Manager,
ICICI Bank Limited,
West Wing, Plot No.24,
South Phase Industrial Estate,
Ambattur, Chennai - 600 058.

+1cc to Mr.B.Balavijayan, Advocate, S.R.No.85007

W.P. No.26490 of 2014 and
M.P.No.1 of 2014

RV(CO)

rrs 11/12/2018

सत्यमेव जयते

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