

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.1734 of 2018
and
W.M.P.No.2158 of 2018

R.Muralitharan ... Petitioner

Vs.

1. District Collector /
District Magistrate,
Pondichery.
2. The Chief Manager / Authorised Officer,
UCO Bank,
Pondichery Main Branch,
Rue Mahe De Labourdannis,
Pondichery - 605 001.
3. M/s.S.G.Wines,
Represented by its Partners,
Mr.Rajaganapathy,
Having its office at No.552,
Maraimalar Adigal Salai,
Pondichery - 607 008.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari to call for the Records pertaining to the order dated 09.01.2018, in A.I.R. (SA) No.706/2017, passed by the DRAT, Chennai.

For Petitioner : Mr.Sivabalan
for Mr.G.Senthil Kumar

For Respondent 1 : Mr.C.T.Ramesh
A.G.P. (P)

For Respondent 2 : Mr.V.Suthakar

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O R D E R

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

On 29.01.2018, we passed the following order:

"Order of the Debts Recovery Appellate Tribunal, Chennai dated 09.01.2018 in AIR (SA) No.706 of 2017, dismissing the appeal for non compliance of pre deposit of Rs.10 Lakhs, ordered on 12.12.2017, is impugned in the instant writ petition, and the petitioner has sought for a writ of certiorari, to call for the records pertaining to the order dated 09.01.2018 in A.I.R.No.706 of 2017 passed by the Debts Recovery Appellate Tribunal, Chennai, and to quash the same.

2. Supporting the prayer sought for, Mr.R.Pradeep, learned counsel submitted that on 12.12.2017, when pre deposit of Rs.10 Lakhs was ordered by Debts Recovery Appellate Tribunal, Chennai in I.A.No.1683 of 2017 in AIR (SA) No.706 of 2017, sum of Rs.5 Lakhs was paid and when the petitioner sought for some more time for pre deposit of the remaining amount of Rs.5 Lakhs, extension was not granted and Debts Recovery Appellate Tribunal, Chennai, vide order dated 09.01.2018, dismissed the AIR (SA) No.706 of 2017. According to the petitioner, balance of Rs.5 Lakhs would be deposited by this Friday ie. 02.02.2018.

3. Having regard to the statutory right of the petitioner to prefer an appeal under Section 18 of the SARFAESI Act, 2002, and the intention to comply with pre deposit, though there is a delay, we permit the petitioner to make the balance pre deposit of Rs.5 Lakhs with Debts Recovery Appellate Tribunal, Chennai or or before Friday, i.e.02.02.2018.

4. Petitioner is permitted to serve the entire cause papers on the counsel, who had appeared for the bank, in Debts Recovery Appellate Tribunal, Chennai.

5. Deposit to be made along with copy of the order made by this Court. Post on 05.02.2018.

6. There shall be an order of interim injunction, as prayed for, till then."

2. On this day, when the matter came up for further hearing, on behalf of the petitioner, Mr.Sivabalan, learned counsel, submitted that as per order dated 29.01.2018, balance amount of Rs.5,00,000/-, has been deposited with the Registrar of the Debts Recovery Appellant Tribunal, Chennai (in short "DRAT") on 05.02.2018.

3. Supporting the same, he has filed a copy of the memo filed before the DRAT, Chennai and copies of the Demand Drafts drawn in favour of the Registrar, DRAT, Chennai.

4. We have perused the memo and the copies of the demand drafts.

5. As per the directions of this Court, dated 29.01.2018, conditional order made in I.A.No.1683 of 2017 in A.I.R. (SA) No.706 of 2017, has been complied with.

6. Consequently, the order made in A.I.R.(SA) No.706 of 2017, dated 09.01.2018, is liable to be set aside.

7. Right of appeal, is statutory. Pre-deposit has been complied with.

8. For the reasons stated supra, the order made in A.I.R. (SA) No.706 of 2017, dated 09.01.2018, is set aside. Consequently, DRAT, Chennai is directed to restore the appeal in A.I.R.(SA) No.706 of 2017, assign regular appeal number and dispose of the appeal, in accordance with DRAT Rules.

9. The writ petition is ordered accordingly. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

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To

1. District Collector /
District Magistrate, Pondichery.

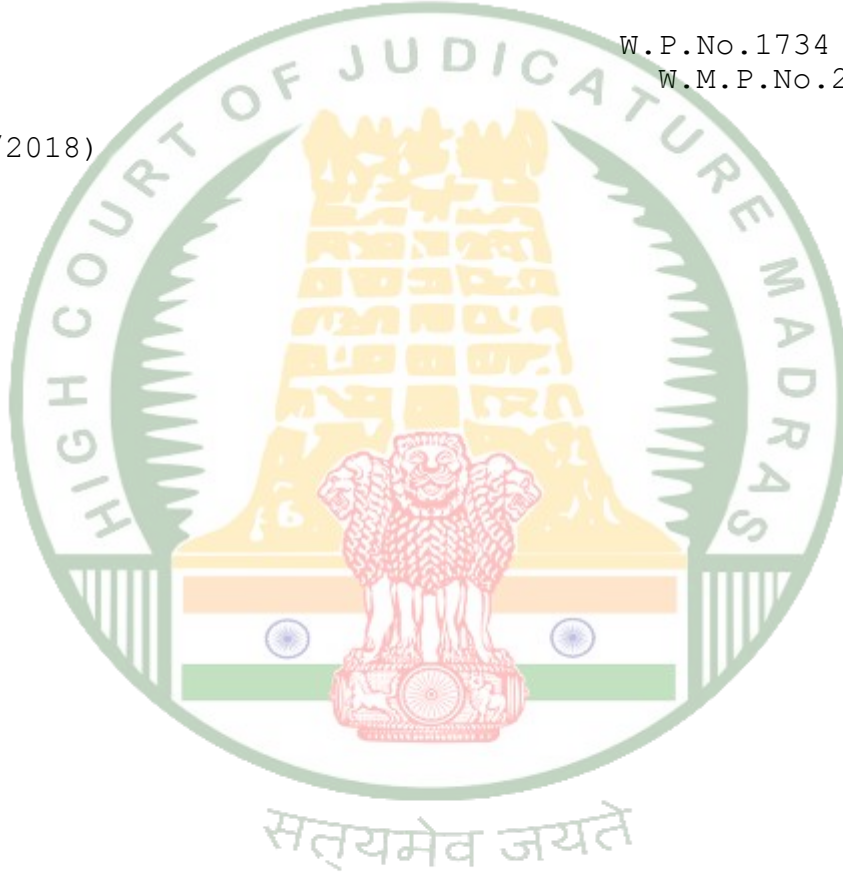
2. The Chief Manager / Authorised Officer,
UCO Bank, Pondichery Main Branch,
Rue Mahe De Labourdannaïs,
Pondichery - 605 001.

+1cc to Mr.G.Senthilkumar, Advocate, S.R.No.8944

+1cc to Mr.V.Sthakar, Advocate, S.R.No.8661

W.P.No.1734 of 2018 and
W.M.P.No.2158 of 2018

VGI (CO)
RRK(08/02/2018)



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