

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.27305 of 2017 and
W.M.P.No.29150 of 2017

A.Maheswari

.. Petitioner

Vs.

1.Indian Bank,
rep by its Authorized Officer,
Micro ARM Branch,
No.55, Ethiraj Salai,
Ground Floor, Chennai - 600 008.

2.Reliance Asset Reconstruction Company Ltd.,
Trustee of Reliance ARC-IB Chennai Trust,
Plot No.82, 6th Floor, Nagin Mahal,
Veer Nariman Road, Churchgate,
Mumbai - 400 020. .. Respondents

(R2 impleaded as per order dated 02.03.2018 in
W.M.P.No.889 of 2018)

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus to call for the order dated 17.08.2017 passed in AIR (SA) No.25 of 2017 on the file of the Debt Recovery Appellate Tribunal, Chennai and to quash the same and consequently, direct the Debt Recovery Appellate Tribunal, Chennai to take the AIR (SA) No.25 of 2017 on file.

For Petitioner : Mr.R.Ganesh Kumar
For Respondents : Mrs. S.R.Sumathy (R2)
R1 - no appearance

O R D E R

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

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the order dated 17.08.2017 passed in AIR (SA) No.25 of 2017 on the file of the Debt Recovery Appellate Tribunal, Chennai to quash the same and consequently, to direct the

Debt Recovery Appellate Tribunal, Chennai to take the AIR (SA) No.25 of 2017 on file.

2.Challenging the order passed in S.A.No.32 of 2012 on the file of the Debts Recovery Tribunal - I, Chennai the petitioner preferred an appeal in AIR(SA) No.25 of 2017 on the file of the Debt Recovery Appellate Tribunal, Chennai. In the appeal filed before the Debt Recovery Appellate Tribunal, the petitioner filed an application in I.A.No.303 of 2017 for waiver of pre-deposit. The Debt Recovery Appellate Tribunal, by order dated 20.07.2017, directed the petitioner to make a pre-deposit of Rs.9 lakhs. While arriving at the pre-deposit amount of Rs.9 lakhs, the Appellate Tribunal took into consideration the notice issued under Section 13(2) dated 07.02.2011 wherein the respondent - Bank claimed a sum of Rs.30.69 lakhs. The Debt Recovery Appellate Tribunal directed the petitioner to make a pre-deposit within four weeks' time. Since the petitioner has not complied with the condition, by order dated 17.08.2017, the Debt Recovery Appellate Tribunal dismissed the appeal in AIR (SA) No.25 of 2017 for want of compliance on pre-deposit.

3.It is brought to the notice of this Court that the petitioner has also filed a Writ Petition in W.P.No.27304 of 2017 challenging the order passed in I.A.No.303 of 2017 in AIR (SA) No.25 of 2017 on the file of the Debt Recovery Appellate Tribunal, Chennai and the Division Bench of this Court by order dated 04.12.2017 while dismissing the Writ Petition reserved the right of the Writ Petitioner to urge all tenable grounds regarding pre-deposit in the present Writ Petition in W.P.No.27305 of 2017.

4.When the Writ Petition is taken up for hearing, the learned counsel for the petitioner submitted that it would be suffice to grant four weeks time to the petitioner to comply with the condition imposed by the Debt Recovery Appellate Tribunal.

5.The learned counsel for the respondent - Bank has no objection for granting four weeks time to the petitioner for making the pre-deposit of Rs.9 lakhs.

6.In view of the submissions made by the learned counsel on either side, we grant four weeks time from the date of receipt of a copy of this order to the petitioner to make the pre-deposit of Rs.9 lakhs before the Registrar, Debt Recovery Appellate Tribunal, Chennai. On such deposit being made by the petitioner within four weeks time, the order passed in AIR(SA) No.25 of 2017 on 17.08.2017 shall stand set aside and the Debt Recovery

Appellate Tribunal shall restore the appeal in AIR (SA) No.25 of 2017 to file and decide the same on merits and in accordance with law.

7.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar(Ccc)

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Sub Assistant Registrar

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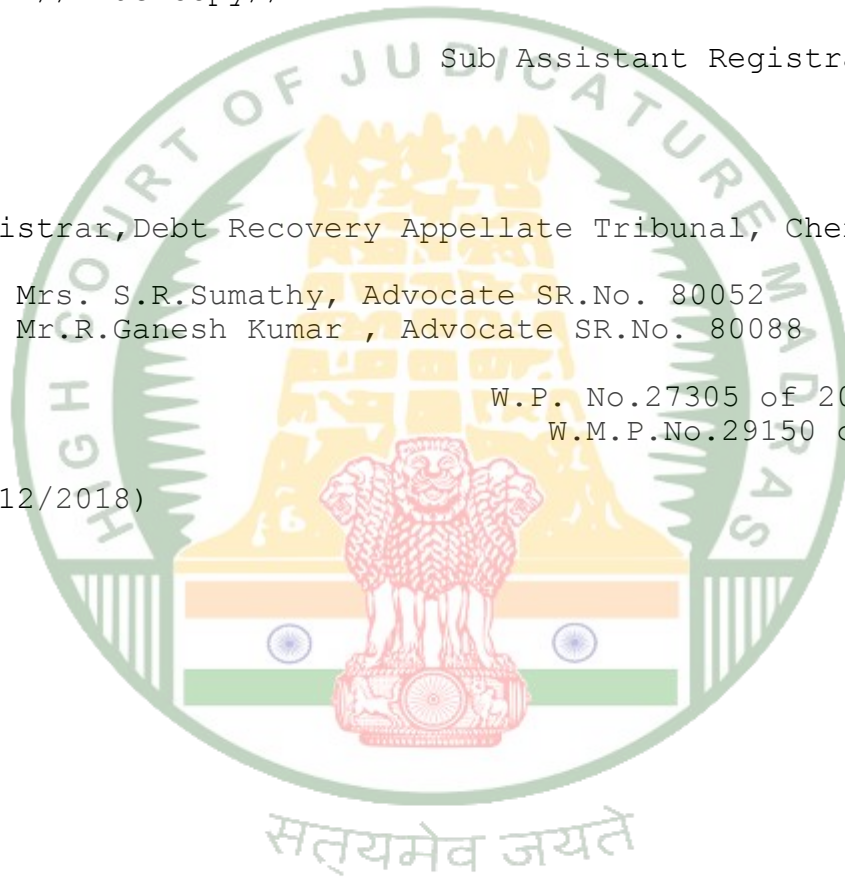
The Registrar,Debt Recovery Appellate Tribunal, Chennai

+1cc to Mrs. S.R.Sumathy, Advocate SR.No. 80052

+1cc to Mr.R.Ganesh Kumar , Advocate SR.No. 80088

W.P. No.27305 of 2017 and
W.M.P.No.29150 of 2017

ASK(03/12/2018)



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