

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.26272 of 2018 &
W.M.P.Nos.30516 & 30518 of 2018

1.M/s.Ra Samy Trading Private Limited
Rep. By its Director
Nos.20 & 21, Ranganathan Street
T.Nagar, Chennai - 17.

2.R.A.Samy

3.Eswari Samy

.. Petitioners

v.

1.United Bank of India
Virugambakkam Branch
No.83, Arcot Road
Virugambakkam, Chennai - 600 090

2.R.Navamani

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records pertaining to Order dated 06.09.2018 in I.A.No.642 of 2018 in A.I.R.379 of 2018 passed by the Debt Recovery Appellate Tribunal, Chennai and quash the same as illegal and arbitrary.

For Petitioner : Mr.G.Senthilkumar

For Respondents : Mr.D.S.Ganesh - for R1

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 Certiorari to call for the records pertaining to Order dated 06.09.2018 in I.A.No.643 of 2018 in A.I.R.No.379 of 2018 passed by the Debt Recovery Appellate Tribunal, Chennai and to quash the same.

2. The petitioner has filed an appeal in A.I.R.No.379 of 2018 before the Debt Recovery Appellate Tribunal, Chennai, challenging the order passed in O.A.No.663 of 2015 on the file of the Debts Recovery Tribunal-II, Chennai. In the said appeal, the petitioner filed an application in I.A.No.643 of 2018 for waiver of pre-deposit.

3. It is not in dispute that O.A.No.663 of 2015 was decreed for a sum of Rs.20.64 crores and interest.

4. Before the Appellate Tribunal the petitioner contended that they have deposited a sum of Rs.7 crores and therefore, no further deposit is required as pre-deposit. The Tribunal considering the case of both parties, directed the petitioner to make a pre-deposit of Rs.6 crores, which is about 25% of the amount decreed by the Debts Recovery Tribunal.

5. Now, it is brought to the notice of this court that the petitioner has already withdrawn a sum of Rs.7 crores deposited before this Court. In these circumstances, the appeal filed by the petitioner before the Debt Recovery Appellate Tribunal cannot be entertained without making the pre-deposit. That apart, the Debt Recovery Appellate Tribunal has only directed the petitioner to make a pre-deposit of Rs.6 crores, when the decree was passed against the petitioner for a sum of Rs.20.64 crores and interest.

6. In these circumstances, we do not find any ground to interfere with the order passed by the Debt Recovery Appellate Tribunal. The Writ Petition is devoid of merits and the same is dismissed.No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Rj
To

Sub Assistant Registrar

1.United Bank of India
Virugambakkam Branch
No.83, Arcot Road
Virugambakkam, Chennai - 600 090

2. The Debt Recovery Appellate Tribunal, Chennai
+1cc to Mr.D.S.Ganesh, Advocate, S.R.No.80259
+1cc to Mr.G.Senthil kumar, Advocate, S.R.No.80541

RK(CO)
SSM(06/12/2018)

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