

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. No.29758 of 2018 and
W.M.P.No.34723 of 2018

N.Ramesh

.. Petitioner

v.

- 1 The Registrar
Debts Recovery Appellate Tribunal
Ethiraj Salai, Chennai
- 2 The Authorised Officer
Indian Bank
TKM Complex, Katpadi Road
Vellore- 632 004
- 3 M/s.K.Abdul Azeez Sons and Co
Rep.by its Managing Director Iqbal Ahmed
No.4, Big Alipuran Street
Vellore- 632 004.
- 4 Dinesh Kumar Jain
- 5 S.Gnanavadivu

.. 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 the pre-deposit order passed in application for waiver of pre-deposit in I.A.No.346 of 2018 in A.I.R. No.102 of 2018 on the file of the Debts Recovery Appellate Tribunal, Chennai, dated 17.10.2018 and quash the same in so far as the direction to make the pre-deposit of Rs.64,00,000/- with the Registrar of the Tribunal within 4 weeks is concerned.

For Petitioner : Mr.C.K.M.Appaji

O R D E R

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

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari to call for the records pertaining to the pre-deposit order passed in application for waiver of pre-deposit in I.A.No.346 of 2018 in A.I.R. No.102 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai, dated 17.10.2018 and to quash the same in so far as the direction to make the pre-deposit of Rs.64,00,000/- [Rupees sixty four lakhs only].

2. Admittedly, the respondent-bank issued section 13(2) notice dated 21.10.2002 claiming a sum of Rs.1.29 Crores. The petitioner had purchased the property from the borrower in the year 2003 and he is in possession and enjoyment of the same. Challenging the auction sale held on 13.08.2004 and to cancel the sale certificate dated 13.05.2008, the petitioner has filed an appeal in S.A.SR.No.3138 of 2016 before the Debts Recovery Tribunal-III, Chennai. The Securitisation Appeal was filed on 13.04.2016 with a petition to condone the delay of 4215 days in filing the appeal. Subsequently, there was a delay of 97 days in re-presenting the papers and the petitioner filed an application in M.A.No.59 of 2016 to condone the delay of 97 days in re-presenting the Securitisation Appeal.

3. The Debts Recovery Tribunal, by order dated 18.01.2018, dismissed the petition.

4. Aggrieved over the same, the petitioner has filed an appeal before the Debt Recovery Appellate Tribunal along with an application in I.A.No.346 of 2018 for waiver of pre-deposit.

5. Though Section 13(2) notice was issued as early as on 21.10.2002 claiming a sum of Rs.1.29 crores, the Debt Recovery Appellate Tribunal had directed the petitioner to make a pre-deposit of Rs.64,00,000/-. Even after a lapse of 16 years, the petitioner was directed to make a pre-deposit of only Rs.64,00,000/-, which cannot be stated as on the higher side.

6. Since the issue is pending for more than 16 years, we are of the considered view that the order passed by the Debt Recovery Appellate Tribunal directing the petitioner to make pre-deposit of Rs.64,00,000/- is just and proper.

7. In these circumstances, we find no ground to interfere with the order passed by the Debt Recovery Appellate Tribunal. The Writ Petition is dismissed. The petitioner is directed to make the pre-deposit of Rs.64,00,000/- within a

period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Rj

To

- 1 The Registrar
Debts Recovery Appellate Tribunal
Ethiraj Salai, Chennai
- 2 The Authorised Officer
Indian Bank
TKM Complex, Katpadi Road
Vellore- 632 004

+1cc to Mr.C.K.M.Appaji, Advocate sr.no.79098

W.P. No.29758 of 2018 and
W.M.P.No.34723 of 2018

mg(co)
nr 22/11/2018

सत्यमेव जयते
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