

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.30785 of 2018 and

W.M.P.No.35927 of 2018

M/s.LA Providence Systems,
rep by its Partner A.Jeyaprakash
No.3/5 C, Apex Plaza, 5th Floor,
Nungambakkam, Chennai - 600 094. ... Petitioner

Vs.

1.The Registrar,
Debt Recovery Appellate Tribunal,
Ethiraj Salai, Chennai - 600 002.

2.M/s.ICICI Bank,
rep by the Authorized Officer,
No.24, South Phase, 2nd Floor,
East Wing, Ambattur Industrial Estate,
Chennai - 600 058. ...

Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records pertaining to the order passed in I.A.No.521 of 2018 in AIR (SA) No.251 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai dated 30.07.2018 and the consequent dismissal of the appeal in AIR (SA) No.251 of 2018 dated 28.08.2018 and quash the same and consequently direct the Debt Recovery Appellate Tribunal, Chennai to restore the appeal in AIR (SA) No.251 of 2018 by modifying the pre-deposit amount in I.A.No.521 of 2018 in AIR(SA) No.251 of 2018.

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

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 calling for the records pertaining to the order passed in I.A.No.521 of 2018 in AIR (SA) No.251 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai dated 30.07.2018 and the consequent dismissal

of the appeal in AIR (SA) No.251 of 2018 dated 28.08.2018, to quash the same and consequently, to direct the Debt Recovery Appellate Tribunal, Chennai to restore the appeal in AIR (SA) No.251 of 2018 by modifying the pre-deposit amount in I.A.No.521 of 2018 in AIR(SA) No.251 of 2018.

2.Challenging the order passed in S.A.No.19 of 2017 on the file of the Debts Recovery Tribunal - I, Chennai, the petitioner filed an appeal in AIR(SA) No.251 of 2018 before the Debt Recovery Appellate Tribunal, Chennai. The petitioner also filed an application in I.A.No.521 of 2018 for waiver of pre-deposit. The Debt Recovery Appellate Tribunal, by order

dated 30.07.2018, directed the petitioner to make a pre-deposit of Rs.80 lakhs in two installments of Rs.40 lakhs each. While fixing the pre-deposit of Rs.80 lakhs, the Appellate Tribunal took into consideration the amount claimed under Section 13 (2) notice, which is Rs.3.19 crores. The Appellate Tribunal took into consideration the amount claimed under Section 13(2) notice and directed the petitioner to make a pre-deposit of 25% of the amount claimed.

3.It is settled position that the pre-deposit amount cannot be reduced to less than 25% of the amount claimed by the petitioner.

4.Therefore, we do not find any reason to interfere with the order passed by the Debt Recovery Appellate Tribunal. Accordingly, the Writ Petition is dismissed. The petitioner is granted four weeks time from the date of receipt of a copy of this order to make the pre-deposit as ordered by the Debt Recovery Appellate Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

1.The Registrar,
Debt Recovery Appellate Tribunal,
Ethiraj Salai, Chennai - 600 002.

2. The Authorized Officer,

M/s.ICICI Bank,
No.24, South Phase, 2nd Floor,
East Wing, Ambattur Industrial Estate,
Chennai - 600 058.

+1cc to Mr.C.K.M.Appaji, Advocate SR.No.79834

W.P. No.30785 of 2018 and
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RK (CO)

GMV (06/12/2018)



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