

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2018

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.33452 of 2018 and

W.M.P.No.38816 of 2018

Preethy Mathew

.. Petitioner

Vs.

1.UCO Bank, Kottayam Branch,
rep by its Manager,
Collectorate, Kottayam - 686 001,
Kerala.

2.UCO Bank, Cyrils Tower,
Near Collectorate, Kottayam - 686 001,
Kerala.

3.The Registrar,
Debt Recovery Appellate Tribunal,
NO.55, Willing Town Estate,
Ethiraj Salai, Egmore,
Chennai - 600 008.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari to quash the order dated 10.12.2018 passed by the 3rd respondent Debt Recovery Appellate Tribunal, Chennai dismissing the appeal in AIR (SA). No.140 of 2018 without any valid reason.

For Petitioner : Mr.D.Durairaj

For Respondents: Mr.V.Sudhakar (R1 & R2)

R3 - Tribunal

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 quash the order dated 10.12.2018 passed by the 3rd respondent Debt Recovery Appellate Tribunal, Chennai dismissing the appeal in AIR (SA).No.140 of 2018 without any valid reason.

2.The petitioner filed S.A.No.24 of 2018 before the Debts Recovery Tribunal, Ernakulam challenging the sale notice dated 15.12.2017 and also the possession notice dated 11.09.2017 issued under Section 13(4). In the said appeal, the petitioner filed an application in I.A.No.112 of 2018 to stay all further proceedings. By order dated 23.01.2018, the Debts Recovery Tribunal, Ernakulam, dismissed the application, against which the petitioner preferred an appeal in AIR (SA).No.140 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai. The Appellate Tribunal, by order dated 12.11.2018, directed the petitioner to make pre-deposit of Rs.13 lakhs within four weeks from 12.11.2018, taking into consideration the outstanding amount of Rs.27,73,922/-. Thereafter, the petitioner sought for extension of time for making the pre-deposit. However, the Appellate Tribunal declined to extend the time by order dated 10.12.2018. Challenging this order, the petitioner has filed the Writ Petition.

3.When the matter is taken up for hearing, the learned counsel appearing for the petitioner submitted that the petitioner is having Demand Drafts for Rs.13 lakhs ready with her and therefore, the petitioner may be permitted to make the pre-deposit before the Debt Recovery Appellate Tribunal.

4.Mr.V.Sudhakar, learned counsel taking notice for the respondents 1 & 2 submitted that the petitioner has already challenged the notice issued under SARFAESI Act before the High Court of Kerala and therefore, the present Writ Petition is not maintainable.

5.Since the petitioner is challenging the impugned order passed by the Debt Recovery Appellate Tribunal, Chennai, with regard to pre-deposit, we are not inclined to accept the contention of the learned counsel for the respondents. Further, it would only prolong the matter, which would be disadvantageous to the respondent - Bank in recovering the dues. Now, that the petitioner is willing to make the pre-deposit, we grant time till 20.12.2018 to make the pre-deposit of Rs.13 lakhs before the Debt Recovery Appellate Tribunal, Chennai.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

va

To

- 1.The Manager,
UCO Bank, Kottayam Branch,
Collectorate, Kottayam - 686 001,
Kerala.
- 2.UCO Bank, Cyrils Tower,
Near Collectorate, Kottayam - 686 001,
Kerala.
- 3.The Registrar,
Debt Recovery Appellate Tribunal,
NO.55, Willing Town Estate,
Ethiraj Salai, Egmore, Chennai - 600 008.

+1cc to Mr.D.Durai Raj, Advocate, S.R.No. 87540
+1cc to Mr.V.Sudhakar, Advocate, S.R.No. 86858

W.P. No.33452 of 2018 and
W.M.P.No.38816 of 2018

VBA (CO)
GN(07/02/2019)



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