



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Petition (MD).Nos.1059 and 1060 of 2018

WEB COPY

M/s. Sri Venkatram Spinners Private Limited
represented through one of its Director,
S.Srinivasan,
Door No.109/2, Koonamkulam Road,
Rajapalayam (Via),
Cholapuram 626 139,
Virudhunagar District. ... Petitioner in W.P.(MD).No.1059/2018
S.Srinivasan ... Petitioner in W.P.(MD).No.1060/2018

Vs.

1. The Chief Manager / Authorized Officer,
Bank of Baroda,
Rajapalayam,
855 -861, Tenkasi Road,
Rajapalayam,
Virudhunagar District.
2. Sandfits Foundaries Pvt Limited,
represented by its
Senior Manager (Accounts and Finance),
having Office at Unit II,
S.F.No.191/2,
Selakarichal Road,
Appanaickenpatti Post,
Palladam Taluk,
Coimbatore 641 402.

(R2 impleaded as per the order of
this Court in W.M.P.(MD).Nos.1837 and
1838 of 2018, dated 14.02.2018)

... Respondents in both

W.Ps.

Prayer: Writ Petitions are filed under Article 226 of the
Constitution of India to issue a Writ of Certiorari to call for the
records relating to the impugned proceedings of the Debt Recovery
Appellate Tribunal, Chennai dated 16.01.2018 in A.IR:17/2018 and
quash the same.

For Petitioners	:	Mr.M.Rajaraman
For Respondent	:	Mr.Pala Ramasamy
		Standing counsel



C O M M O N O R D E R

(Order of the Court was made by T.S.SIVAGNANAM,J.)

Heard Mr.M.Rajaraman, learned counsel for the petitioners and Mr.Pala Ramasamy, learned Standing counsel for the respondent.

2. The petitioner has filed these writ petitions challenging the order passed by the Debt Recovery Appellate Tribunal adjourning the application filed by the petitioner in A.IR:17/2018 for waiver of pre-deposit with the direction to serve notice on the respondent Bank by registered post with acknowledgment due.

3. The said appeal was preferred by the petitioner challenging the interim order granted by the Debt Recovery Tribunal in I.A.No.2529 of 2017 in S.A.No.501 of 2017, dated 22.12.2017. By the said order, the Debt Recovery Tribunal, granted an order of stay of confirmation of the sale of the petitioner's property subject to the condition that the petitioner pays Rs.25,00,000/- on or before 27.12.2017, Rs.80,00,000/- on or before 22.01.2018, Rs.80,00,000/- on or before 15.02.2018 and Rs.80,00,000/- on or before 12.03.2018. The petitioner filed an appeal before the Tribunal stating that the condition is onerous, apart from raising other conditions. The appellate Tribunal is yet to consider the petitioner's appeal petition on merits as the petitioner is required to comply with the pre-deposit condition which is mandatory. When the case was adjourned to 25.01.2018 for filing proof of service of notice on the respondent/Bank, the petitioner is rush to this Court and file this writ petition. The proceedings which are impugned in these writ petitions is only a direction to the petitioner to serve notice on the respondent in the application for waiver. Therefore, the petitioner cannot be stated to be aggrieved by the impugned proceedings as it is not an order in the *stricto sensu*. In any event, the petitioner approached this Court and filed these writ petitions. We are also of the considered view that these writ petitions are not maintainable as the petitioner has to agitate all the grounds before the Debt Recovery Tribunal and the High Court cannot be issued as an interim measure. At the time when the writ petitions were entertained, this Court, with a view to consider the *bona fides* of the petitioner's claim, directed the petitioner to pay a sum of Rs.20,00,000/- on 22.01.2018. This condition has been complied with. Now, the case stands adjourned to 22.02.2018. So, to ascertain as to whether the pre-deposit of Rs.1.5 crores has been complied with by the petitioner. This being the part of the condition for entertaining the appeal ie., the petitioner should pay Rs.1.5 crores initially within a period of four weeks from the date of order of the Appellate Tribunal and the second instalment of another Rs.1.5 crores in the next four weeks thereafter. The petitioner is yet to effect the payment of this 1.5 crores.

4. Considering the factual situation and notifying that there are about 500 employees in the petitioner's Industry, we are



inclined to grant an interim protection till the petitioner approaches the Debt Recovery Appellate Tribunal, on 22.02.2018, when the case is posted.

5. In the light of the above discussion, it is held that these writ petitions are not maintainable and the petitioner is to agitate all their contentions before the Debt Recovery Tribunal in the pending matter. In order to give an interim protection till 22.02.2018, the petitioner is directed to pay a sum of Rs.50,00,000/- on or before 21.02.2018. If the petitioner complies with the said condition, the Appellate Tribunal may consider the petitioner's case subject to their satisfaction and may grant reasonable time to comply with the first instalment.

6. The Writ Petitions are disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

1.The Presiding Officer,
Debt Recovery Appellate Tribunal, Madurai.

2.S.Srinivasan,
Director,
M/s.Sri Venkataram Spinners Pvt.Ltd.,
Door No.109/2 Koonamkulam Road,
Rajapalayam(Via),
Cholapuram-626 137
Virudhunagar District.

3.The Chief Manager / Authorized Officer,
Bank of Baroda,
Rajapalayam,
855 -861, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

+1cc to Mr.M.RAJARAMAN, Advocate, SR. 48515

+4cc to Mr.PALA RAMASAMY, Advocate, SR. 48738, 48737, 48981, 48980

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KK/SV MMS/SAR 3/16.02.2018/ 3P-9C/