

Date of decision: 5th December, 2018

KAMAL KISHORE SASPAL

..... Petitioner

Through: Mr. Amarjit Singh Bedi, Adv.

DEVELOPMENT CREDIT BANK LTD

..... Respondent

Through: Mr. Hashmat Nabi and
Mr. Farah Naaz, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

CM No. 51109/2018 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM No. 51109/2018 (for amendment of the writ petition)

This is an application filed by the petitioner seeking amendment in the writ petition. For the reasons stated in the application the same is allowed and amended writ petition is taken on record.

Application stands disposed of.

W.P.(C) 7747/2018

1. Mr. Hashmat Nabi, learned counsel appearing for the respondent states he does not wish to file any reply to the amended writ petition and the matter can be disposed of.

2. The issue which arises for our consideration is whether the Appellate Tribunal can insist upon pre-deposit of 50% of the amount of debt claimed from the petitioner by the respondent Bank under Section 13(2) of the SARFAESI Act for entertaining the appeal.

3. Mr. Hashmat Nabi states that even after adjusting the sale proceeds, there is a shortfall of ₹2,40,99,109/- as on December 13, 2013. The petitioner has to include the interest component on the said amount. He further submits that the 50% has paid on the amount so computed in terms of the above.

4. Mr. Amarjit Singh Bedi, learned counsel appearing for the petitioner states that the petitioner is not in a position to make the pre-deposit. If that be so, in view of the decision of the Supreme Court in *Narayan Chandra Ghosh vs. UCO Bank and Others* reported as (2011) 4 SCC 548, wherein the Court has held that the pre-deposit is a mandatory provision, no relief can be granted.

5. It is clear that the pre-deposit is a mandatory provision, which cannot be overlooked. In view of the fact that the petitioner is not in a position to make the pre-deposit, we see no reason to entertain the writ petition, the same is dismissed.

V. KAMESWAR RAO, J

CHIEF JUSTICE

DECEMBER 05, 2018/aky

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