IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5925 of 2016

==

M/s Freta Onion Storage a proprietorship firm at village – Gaurichak Ramganj Palanki, Mohanpur Via Punpun through its Proprietor Revindera Nath Sinha, S/o Late Narsingh Singh resident of Mokhtar Toli, P.S. Kadamkuan, District – Patna.

... ... Petitioner

Versus

1. The Union Of India through the Presiding Officer Debts Recovery Appellate Tribunal at Allahabad.
2. The United Bank of India Patna Branch, Local Regional Office - Frazer Road, Patna
3. Ima Sinha
4. Chetana Sinha
5. Bhavana Sinha
6. Ina Sinha
   All daughters of Ravindra Nath Sinha
7. Gayatri Sinha W/o Ravindra Nath Sinha
   All residents of Mukhtar Toli, Nala Road, P.S. Kadamkuan, Patna 800003

... ... Respondents

==

Appearance :
For the Petitioner/s : Mr.Uday Kumar, Advocate
For the Respondent/s : Mr.S.D Sanjay Addl. Soc. Gen.

==

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-08-2019 Heard learned counsel for the petitioner and learned counsel representing the Bank.

Petitioner, in the present case, is aggrieved and dissatisfied with the order dated 22.01.2016 passed in Appeal (T) No. 120/2013 by which while considering the application of the petitioner in terms of Section 21 of the Recovery of Debts due to Banks and Financial Institution Act, 1993 (hereinafter referred to as the “Act of 1993”) the

WEB COPY

Debts Recovery Appellate Tribunal has reduced the requirement of statutory deposit from 75% to 50% of the amount determined by the Tribunal amounting to Rs. 25,83,171/-.

Learned counsel for the petitioner submits that for various reasons stated in paragraph 14 onwards of the writ application the petitioner was facing financial constraints in depositing the entire 75%, and, hence, a prayer was made to waive the entire amount but the Tribunal has not done so.

Learned counsel for the Bank has opposed the prayer of the petitioner. It is submitted that the Tribunal has granted some relief to the petitioner by reducing the requirement of deposit of 75% of the awarded amount and now the petitioner is required to deposit 50% of the amount determined by the Tribunal. It is submitted that 50% amount would come to around 13 Lakhs but the petitioner is not willing to deposit even that amount which shows that the petition preferred by the petitioner was not a bona fide petition. It is submitted that the plea of financial constraints cannot be a ground to waive the entire amount as it would set a bad precedent.

WEB COPY

Having heard learned counsel for the petitioner and learned counsel for the Bank, this court is of the considered opinion that the Appellate Authority has considered the submissions of the petitioner and then for the reasons recorded in paragraph '9' to '12' the Tribunal has refused to waive the entire amount and has directed the petitioner to deposit 50% of the amount determined. Paragraph '9' to '12' are quoted hereunder for a ready reference:-

> "**9.** It is relevant to refer the provisions of Section 21 of the RDDBFI Act which are as under:-
>
> > 21. Deposit of amount of debt due, on filing appeal – Where an appeal is preferred by an person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy five per cent of the amount of debt so due from him as determined by the Tribunal under Section 19:
> >
> > Provided that the Appellate Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.
>
> **10.** The language used in proviso to Section 21 of the RDDBFI Act is very plain and clear that the Appellate Tribunal may, for reasons to be recorded in writing, waive or reduce the amount of 75% to be deposited under this

WEB COPY

section. The contention of the appellants regarding financial hardship cannot be a ground to completely waive the amount determined under Section 19 of the RDDBFI Act.

11. The facts of the case as projected by the appellants disclose that the bank had filed an amended Original Application for a sum of Rs. 25,83,171/- which was allowed by the Tribunal below and the recovery certificate was directed to be issued for a sum of Rs. 25,83,171/- alongwith interest.

12. In the facts and circumstances of the case as enumerated above, the appellants are directed to deposit 50% of the amount determined by the Tribunal below amounting to Rs. 25,83,171/- within 30 days from the date of this order in the form of Demand Draft in the name of the Registrar of this Appellate Tribunal. The Registrar of this Appellate Tribunal shall keep this amount in FDR for a period of six months in auto renewal scheme with the Nationalized Bank so that the same can fetch the prevailing rate of interest of the Bank."

This Court finds no error in the order passed by the Appellate Tribunal.

This writ application has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U			

WEB COPY