

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.07.2019

CORAM

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAIWAMY

W.P.No.12700 of 2019

- 1 Krishna CNC Tech
Rep. by its Proprietor,
R.B.Keshavamurthy
No.45, Gubbanna Industrial Estate
6th Block, Rajaji Nagar
Bangalore - 560 010.
- 2 R.B.Keshavamurthy ... Petitioners
- Vs
- 1 The Authorized Officer
Tamilnad Mercantile Bank Ltd.
Bangalore City Region
(Bangalore City Branch)
19F, Abhinay Theatre Complex
B.V.K.Iyengar Road
Bangalore - 560 009.
- 2 R.Sandeep
3 K.Rajini
- 4 The Registrar
Debt Recovery Appellate Tribunal
Indian Bank Circle Office
4th Floor, No.55, Ethiraj Salai
Egmore, Chennai - 600 008. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records of the 4th respondent (Debt Recovery Appellate Tribunal, Chennai) in AIR (SA) No.383 of 2018, dated 11.12.2018 and quash the same.

For Petitioners : Mr.T.R.Sundaram

For Respondents : Mr.V.Chandrasekaran
for 1st respondent

Mr.B.S.Jayanth Krishna
for 2nd respondent

ORDER

(Order of the Court was made by M.DURAISWAMY,J.)

Challenging the order dated 11.12.2018 passed in AIR (SA) No.383 of 2018 by the Debt Recovery Appellate Tribunal, Chennai, the petitioners, who are borrowers, have filed the above writ petition.

2. Assailing the order passed in S.A.No.11 of 2018 on the file of the Debts Recovery Tribunal-I, Bangalore, the petitioners preferred an appeal in AIR (SA) No.383 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai. The Appellate Tribunal, by order dated 13.11.2018, directed the petitioners to make a pre-deposit of Rs.13 lakhs within a period of four weeks. Thereafter, the petitioners filed an application in I.A.No.1189 of 2018 seeking for extension of time. In the affidavit filed in support of the said application, the petitioners have stated that the order passed by the Appellate Tribunal could not be complied with for the reason that the second petitioner met with an accident. However, the Appellate Tribunal, by order dated 11.12.2018, dismissed I.A.No.1189 of 2018 and consequently, dismissed AIR (SA) No.383 of 2018.

3. The learned counsel for the first respondent submitted that the petitioners were shown indulgence on several occasions and, therefore, the time for making pre-deposit should not be extended any further.

4. However, taking into consideration the averments stated in the affidavit filed in support of the petition, we are of the view that the petitioners can be directed to make a pre-deposit of Rs.14 lakhs instead of Rs.13 lakhs ordered by the Appellate Tribunal. At this stage, the learned counsel for the petitioners submitted that the petitioners are having a demand draft of Rs.6.50 lakhs ready with them and they would make the said payment in the course of this week before the Debt Recovery Appellate Tribunal, Chennai.

5. In view of the submissions made on either side, we direct the petitioners to make pre-deposit of Rs.14 lakhs

in two instalments. Accordingly, the petitioners are directed to make a pre-deposit of Rs.6.50 lakhs in the course of this week and the second instalment of Rs.7.50 lakhs within a period of four weeks from the date of receipt of a copy of this order. On the petitioners complying with the above said directions, the Appellate Tribunal shall take up the appeal and dispose of the same on merits and in accordance with law.

In the result, the writ petition is disposed of by modifying the order dated 11.12.2018 passed by the Appellate Tribunal to the extent indicated above. No costs. Consequently, W.M.P.Nos.12930 and 12931 of 2019 are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sasi

To:
The Registrar
Debt Recovery Appellate Tribunal
Indian Bank Circle Office
4th Floor, No.55, Ethiraj Salai
Egmore, Chennai - 600 008.

A.SK(10/07/2019)

W.P.No.12700 of 2019

सत्यमेव जयते

WEB COPY