

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

W.P. No.1261 of 2019

1.Dr.Zubaida Begaum
2.Dr.Khalid Hussain
3.Dr.Sajjad Hussain ... Petitioners

-vs-

1.Indian Bank,
rep. by its Manager,
Guindy Branch, Chennai-600 032.
2.Ansari Begum
3.Khousar Begum
4.Rasheeda Begum
5.Noorjahan .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records pertaining to the order dated 18.12.2018 in I.A.No.617 of 2018 in A.I.R. (SA) No.368 of 2018 passed by the Debt Recovery Appellate Tribunal, Chennai and quash the same as illegal, arbitrary and untenable.

For Petitioners : Mr.S.Sethuraman

For Respondents : Mr.Jayesh B.Dolia
for M/s.Aiyar and Dolia
for respondent No.1
R2 - R5 - Given up

ORDER

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

Challenging the order passed in A.I.R.No.368 of 2018 on the

file of the Debt Recovery Appellate Tribunal, Chennai, the borrowers have filed the above writ petition. Challenging the order passed in O.A.No.327 of 2001 on the file of the Debts Recovery Tribunal-II, Chennai, the petitioners have filed A.I.R.No.368 of 2018 before the Debt Recovery Appellate Tribunal, Chennai. The Debts Recovery Tribunal-II, Chennai, decreed O.A.No.327 of 2001 for recovery of a sum of Rs.2.27 Crores together with future interest and costs from the petitioners. The Debt Recovery Appellate Tribunal, Chennai, by an order dated 18.12.2018, directed the petitioners to make pre-deposit of Rs.1 Crore before the Registrar of the Debt Recovery Appellate Tribunal, Chennai. Challenging this order, the petitioners have preferred the present writ petition.

2. Under Section 21 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, pre-deposit can be reduced to 25% of the claim made by the first respondent Bank. Therefore, when O.A.No.327 of 2001 was decreed for recovery of a sum of Rs.2.27 Crores, giving direction to the petitioners to make pre-deposit of Rs.1 Crore would be on the higher side.

3. In these circumstances, we are of the considered opinion that pre-deposit can be reduced to 25% of the decreed amount of Rs.2.27 Crores. In such view of the matter, we direct the petitioners to make pre-deposit of 25% of the sum of Rs.2.27 Crores within a period of three weeks from the date of receipt of a copy of this order and the first respondent Bank is directed to keep the said sum in an interest bearing no lien account till the disposal of A.I.R.No.368 of 2018.

4. With the above modification, the writ petition is partly allowed. No costs. Consequently, WMP.No.1414 of 2019 is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar,
Debts Recovery Tribunal-II, Chennai.

2.The Manager,
Indian Bank,
Guindy Branch,
Chennai-600 032.

W.P.No.1261 of 2019

RSI (CO)
CSL/25.04.2019



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