

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.22051 of 2019

K.Mohan

.. Petitioner

-vs-

1.The Authorised Officer,
Indian Bank, Pattabiram Branch,
No.89, M.T.H. Road,
Pattabiram,
Chennai - 600 072.

2.K.Karthikeyan

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records culminating in the order dated 13.12.2018 passed by the Debt Recovery Appellate Tribunal, Chennai in I.A.No.443 of 2018 in AIR (SA) No.620 of 2017 and quash the same.

For Petitioner : Mr.N.Senthilkumar

For Respondents : Mr.T.Sundar Rajan
for respondent No.1

No Appearance
for respondent No.2

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ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

This writ petition is directed against the order of the Debt Recovery Appellate Tribunal, Chennai, dated 13.12.2018, whereby the Debt Recovery Appellate Tribunal dismissed the appeal filed by the petitioner/borrower against the order of the Debts Recovery Tribunal dated 1.9.2017, as the appeal was re-

presented with a delay of 157 days after meeting the office objection. There was another petition in I.A.No.443 of 2018 for condonation of delay of 40 days in filing the appeal restoration application and, therefore, the Debt Recovery Appellate Tribunal drew the conclusion that the appellant is not interested in addressing the appeal on merits.

2. The learned counsel appearing for the petitioner, Mr.N.Senthilkumar, submitted that the petitioner is genuinely interested in pursuing the said appeal on merits and, therefore, reasonable costs may be imposed and the appeal may be restored on the file of the Debt Recovery Appellate Tribunal to decide the same on merits and in accordance with law.

3. Having heard the learned counsel for parties, we are of the opinion that the statutory appellate forum should normally decide the case on merits to avoid unnecessary further litigation in the Constitutional Courts. The learned Debt Recovery Appellate Tribunal itself could have subject to costs condoned the delay in re-presenting the appeal before it after meeting the office objection and taken up the matter on merits and decided the same, after hearing the concerned parties on record in accordance with law. Against the aforesaid order, the petitioner/borrower had to unnecessarily approach this Court by way of this writ petition, where the same prayer is reiterated and we are inclined to allow the same.

4. In view of the aforesaid, the writ petition is allowed and the order dated 13.12.2018 passed by the learned Debt Recovery Appellate Tribunal, Chennai, is set aside. We direct that in case the petitioner deposits costs of Rs.25,000/- (Rupees Twenty Five Thousand only) in the account of the respondent - Indian Bank, Pattabiram Branch, within a period of two weeks from today, the appeal shall stand restored to the file of the Debt Recovery Appellate Tribunal, Chennai and the learned Debt Recovery Appellate Tribunal is requested to decide the appeal on merits and in accordance with law.

5. With the above observation and direction, the writ petition is disposed of. No costs. Consequently, W.M.P.No.21322 of 2019 is closed.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

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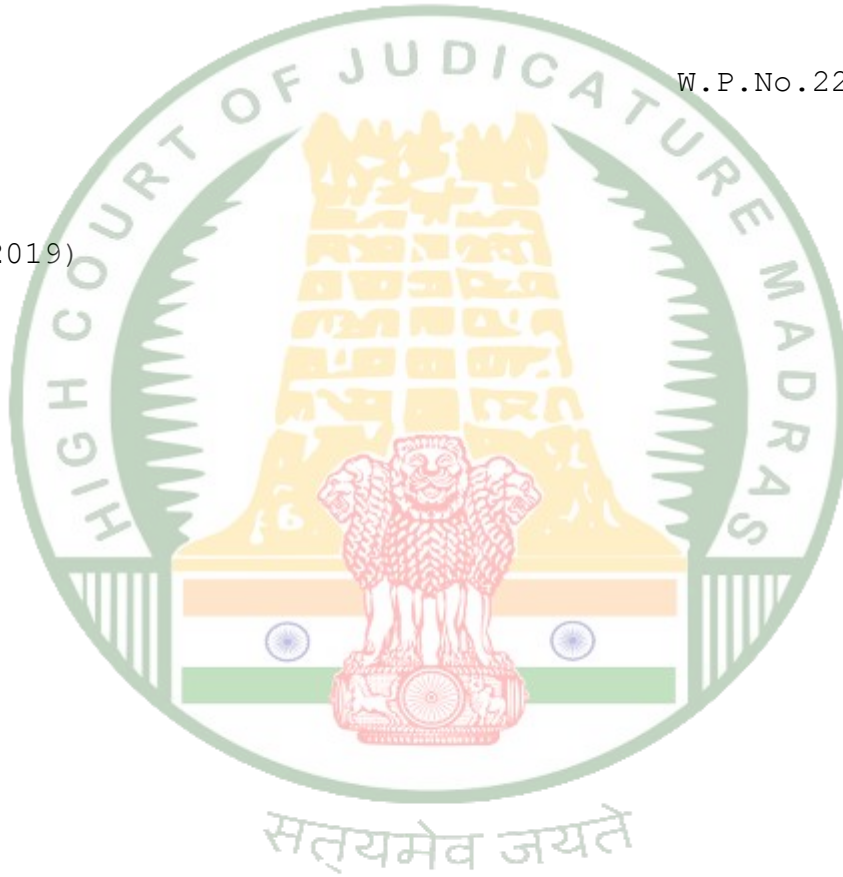
1.The Debts Recovery Appellate Tribunal
Chennai

2. The Authorised Officer,
Indian Bank, Pattabiram Branch,
No.89, M.T.H. Road, Pattabiram, Chennai - 600 072.

+1 CC to Mr.N.Senthilkumar, Advocate sr 89902.

W.P.No.22051 of 2019

JP (CO)
SP (08/11/2019)



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