

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P.((NPD) No.896 of 2019 and

C.M.P.No.5817 of 2019

N.Suresh

... Petitioner

v.

1. The Authorised Officer
Branch Manager, Indian Bank
57, East Car Street, Villianur Branch
Puducherry State – 605 110

2. M/s. Esskay Traders
Prop. P.a. Sankar
No.1 School Street
Thennal and Post
Villupuram Taluk

3. P.A.Sankar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India,
against the order dated 20.02.2019 passed in I.A.No.190 of 2018 in

A.I.R.(SA) No.650 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai.

For Petitioners : Mr. R.Nalliappan

For Respondents : Mr. Jayesh B. Dolia
for M/s. Aiyer and Dolia – for R1

ORDER

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

Challenging the order passed in I.A.No.190 of 2018 in A.I.R.(SA) No.650 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai, the appellant has filed the above Civil Revision Petition.

2. Challenging the order passed in S.A.No.222 of 2018 on the file of the Debts Recovery Tribunal-III, Chennai, the petitioner filed an appeal before the Debt Recovery Appellate Tribunal, Chennai in A.I.R.(SA) No.650 of 2018. The said appeal was dismissed for default on 20.12.2018. Thereafter, the petitioner filed an application in I.A.No.189 of 2019 to condone the delay of 17 days in filing the application to restore the appeal to file and I.A.No.190 of 2018 to restore the appeal.

3. The Debt Recovery Appellate Tribunal, by order dated 20.02.2019, condoned the delay in filing the application to restore the appeal and allowed I.A.No.189 of 2019. So far as I.A.No.190 of 2019 to restore the appeal is concerned, the Debt Recovery Appellate Tribunal, allowed the appeal on condition that the petitioner making a deposit of Rs.30,00,000/- [Rupees thirty lakhs only] with the Registry within 15 days. While arriving at the said figure, the Appellate Tribunal observed that the matter pertains to recovery of a sum of Rs.60.20 lakhs and therefore, directed the petitioner to make deposit of Rs.30 lakhs for allowing the application to restore the appeal, which was dismissed for default

4. Imposing a condition to pay a sum of Rs.30 lakhs for restoring the appeal in our view is onerous. The Appellate Tribunal, having condoned the delay in filing the application to restore the appeal ought not to have imposed such a onerous condition. In such view of the matter, the said condition is liable to be set aside. Accordingly, the same is set aside. Instead, we direct the petitioner to pay a cost of Rs.10,000/- [Rupees ten thousand only] to the respondent No.1/Bank within three weeks from the date of receipt of a copy of this order, failing which, the application in I.A.No.190 of 2019 shall stand dismissed automatically

without further reference to this Court. However, we make it clear that setting aside the condition imposed by the Appellate Tribunal shall not preclude the petitioner from making the pre-deposit under section 18 of the SARFAESI Act. If an application is filed by the petitioner for waiver of pre-deposit, it is open to the Appellate Tribunal to consider the same and pass orders, in accordance with law.

With these observations, the Civil Revision Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(V.K.T., CJ.)

(M.D., J.)

05.03.2019

Index : Yes/No
Speaking Order/Non Speaking Order

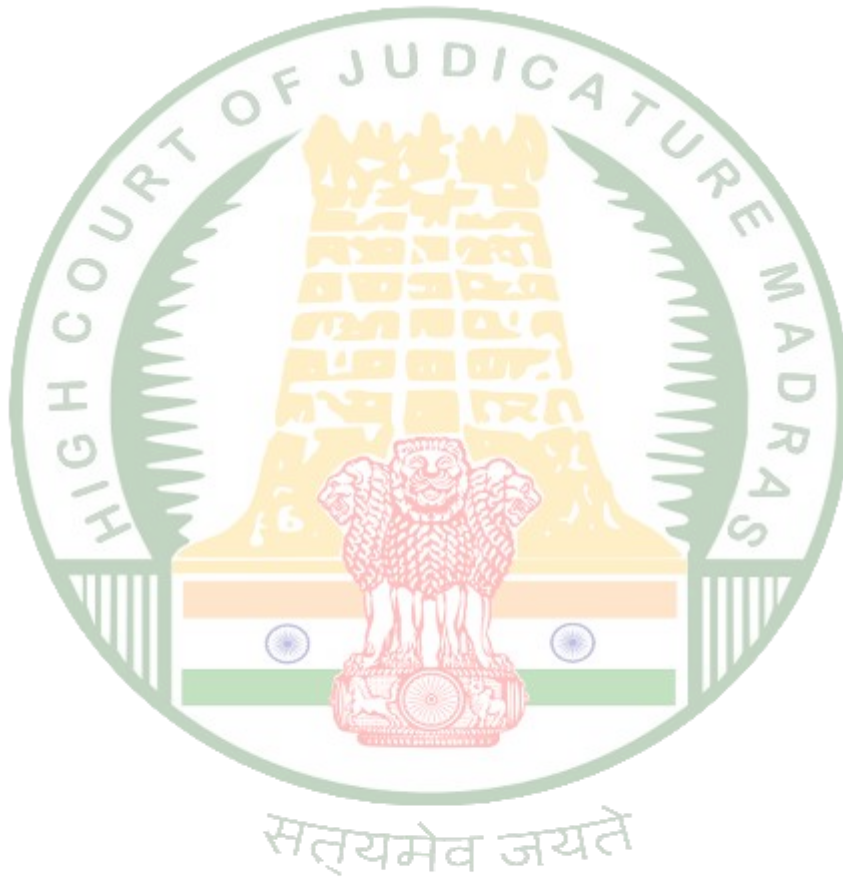
Rj

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To

1. The Debt Recovery Appellate Tribunal
Chennai.
2. The Authorised Officer
Branch Manager, Indian Bank
57, East Car Street, Villianur Branch
Puducherry State – 605 110



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THE HON'BLE CHIEF JUSTICE
AND

M. DURAISWAMY,J.

Rj



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