

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.9830 of 2019 and

W.M.P.No.10419 of 2019

R.K.Rajkumar ... Petitioner

Vs.

- 1.The Registrar,
Debt Recovery Appellate Tribunal,
Egmore, Chennai - 600 008.
- 2.The Authorized Officer,
State Bank of India
(formerly State Bank of Hyderabad)
Regional Office,
No.4, Santhome High Road,
Mylapore, Chennai - 600 004.
- 3.State Bank of India
(formerly State Bank of Hyderabad)
rep by its Branch Manager,
56/12, SRP Koil Street,
Opp to bus depot,
TVK Nagar, Chennai - 600 082. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus to call for the records of the respondents particularly that of the 1st respondent in AIR(SA).No.703 of 2018 dated 19.03.2019 and quash the same as not maintainable in law or facts and consequently direct the 1st respondent to number the above appeal filed by the petitioner and hear the same and dispose of on merits in accordance with law.

For Petitioner : Mr.T.S.Rajamohan

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAISWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records of the respondents particularly that of the 1st respondent in AIR(SA).No.703 of 2018 dated 19.03.2019 and to quash the same and consequently direct the 1st respondent to number the above appeal filed by the petitioner and dispose of the same on merits and in accordance with law.

2.Challenging the order passed in S.A.No.101 of 2017 on the file of the Debts Recovery Tribunal - III, Chennai, the petitioner filed an appeal in AIR(S).No.703 of 2018 before the Debt Recovery Appellate Tribunal, Chennai. In the said appeal, the petitioner has filed an application in I.A.No.65 of 2019 for waiver of pre-deposit.

3.The Debt Recovery Appellate Tribunal, by order dated 19.03.2019, directed the petitioner to make a pre-deposit of 25 % of the claim made in the notice dated 05.05.2016 issued under Section 13(2) of the SARFAESI Act. In the Section 13(2) notice, the respondent - Bank had claimed a sum of Rs.36,28,000/-. The Debt Recovery Appellate Tribunal directed the petitioner to make a pre-deposit of Rs.10 lakhs in two installments.

4.Since the claim made by the respondent - Bank as on 05.05.2016 was Rs.36,28,000/-, the order passed by the Appellate Tribunal directing the petitioner to make a pre-deposit of Rs.10 lakhs is just and proper.

5.It is settled position under Section 18 of the SARFAESI Act that the pre-deposit amount cannot be reduced to below 25%.

6.In these circumstances, we do not find any error or irregularity in the order passed by the Appellate Tribunal. The Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

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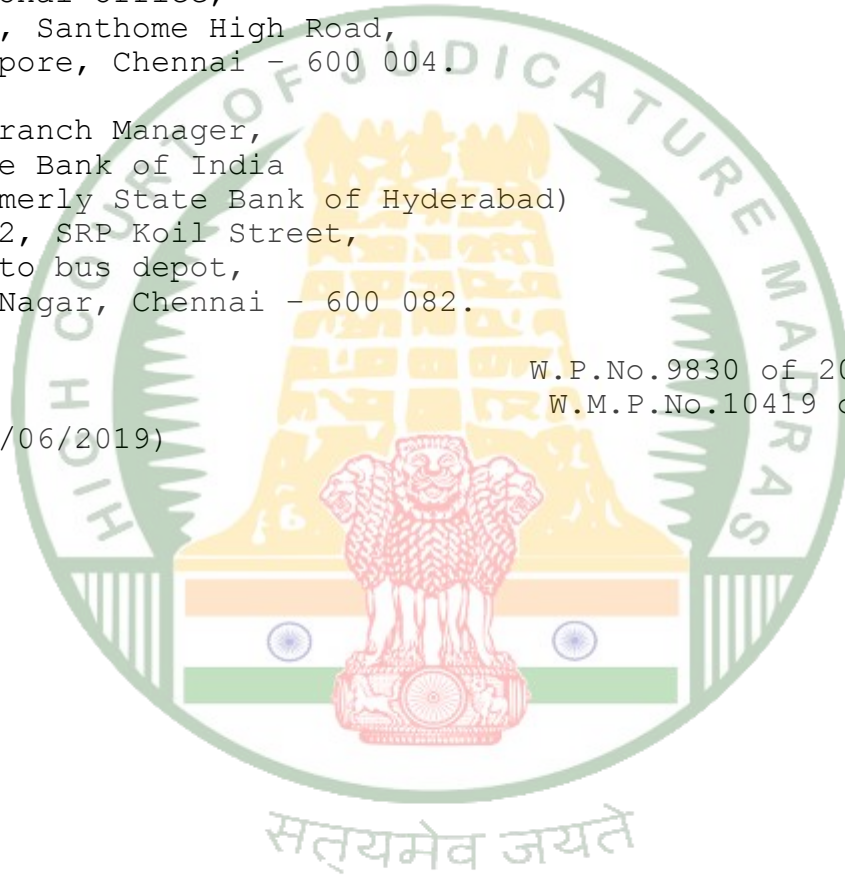
Sub Assistant Registrar

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To

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W.P.No.9830 of 2019 and
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A.SK(06/06/2019)



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