IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

C.R.P.(PD).No.1273 of 2019 and
C.M.P.No.8347 of 2019

1.M/s.Anjana Agencies
A Partnership Firm
having its Office/place of business at
No.320, Opp. BHEL.
Mysore Road, Bangalore,
rep by its Partnership
R.J.A. Murthy and Meera Murthy
2.R.J.A.Murthy
3.R.A.Meera Murthy .. Petitioners

Vs.

1.Canara Bank,
having its Head Office at
No.112, J.C.Road, Bengaluru,
and having its Branch Office at
No.309, Kanakapura Road,
Yediyur, 7th Block, Jayanagar,
Bengaluru 560 082
rep by its Senior Manager, B.H.S.Pai .. Respondent

Petition filed under Article 227 of the Constitution of India against the order dated 05.03.2019 passed in I.A.No.185 of 2019 in AIR No.45 of 2018 by the Debt Recovery Appellate Tribunal, Chennai.

For Petitioner : Mr.S.Raja
for M/s.Sashidhar Sivakumar

O R D E R

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

The Civil Revision Petition has been filed by the petitioners challenging the order passed in I.A.No.185 of 2019 in AIR No.45 of 2019 on the file of the Debt Recovery Appellate Tribunal, Chennai.

2.Challenging the order passed in T.A.No.520 of 2017 on the file of Debts Recovery Tribunal – II, Bengaluru (originally filed as O.A.No.172 of 2011 on the file of the Debts Recovery Tribunal – I, Bengaluru), the petitioners filed an appeal in AIR.No.45 of 2019 before the Debt Recovery Appellate Tribunal, Chennai. In the said appeal, the petitioners filed an application in I.A.No.185 of 2019 for waiver of pre-deposit.

3.The respondent – Bank filed O.A. for recovery of a sum of Rs.1.15 crores along with interest in the year 2011. Now, after a lapse of eight years, the petitioners have filed the appeal before the Debt Recovery Appellate Tribunal. Taking into consideration that the outstanding amount is more than Rs.3.78 crores, the Debt Recovery Appellate Tribunal had directed the petitioners to make a pre-deposit of Rs.1.25 crores, which is 25% of the outstanding amount.

4.The learned counsel appearing for the petitioners submitted that the Debt Recovery Appellate Tribunal had proceeded with the matter as though it is an appeal filed under SARFAESI Act and therefore, the Appellate Tribunal had directed the petitioners to make the pre-deposit.

5.The contention of the learned counsel for the petitioners cannot be accepted for the reason that the Debt Recovery Appellate Tribunal had proceeded with the matter only under the Recovery of Debts and Bankruptcy Act, 1993.

6.The learned counsel appearing for the petitioners further submitted that under the Recovery of Debts and Bankruptcy Act, there is no provision for giving direction to make the pre-deposit for preferring an appeal.

7.The said contention of the petitioners cannot hold good for the reason that under Section 21 of the Recovery of Debts and Bankruptcy Act, for entertaining an appeal, the appellants should make the pre-deposit upto 50% of the debt amount, which can be reduced to 25%. Therefore, the order passed by the Appellate Tribunal is legally valid and therefore, we do not find any merits in the Civil Revision Petition. Accordingly, the Civil Revision

Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes/No **(V.K.T., CJ.)** **(M.D., J.)**
Internet : Yes **01.04.2019**
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To

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THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

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