

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.07.2019

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

THE HON'BLE MR.JUSTICE M.DURAIWAMY

W.P. No.10163 of 2019 and
W.M.P.No.10727 of 2019

N.Kulandaiammal

.. Petitioner

Vs.

1. The Authorised Officer,
State Bank of India,
Udhagamandalam Branch,
Nilgiris.

2. Mr. C.Palani Gounder
3. Mr. Mohammad Ayyup Sait
4. Mr. G. Krishnasamy
5. Mrs. Radhika
6. Mr. R.S.Prithviraj

7. The Debts Recovery Appellate Tribunal,
No.55, Ethiraj Salai,
Chennai - 600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 01.10.2018 made in AIR No.322 of 2018 on the file of Debt Recovery Appellate Tribunal and quash the same and consequently direct the Debts Recovery Appellate Tribunal to number the appeal and dispose the same on merits.

For Petitioner : Mr. Jayesh B. Dolia
for M/s.Ayar and Dolia.

For Respondent : Mr. Mr. M.L. Ganesh - for R1
Mr. C. Prakasam for R3
Mr. Sam Jayaraj Houston
for M/s.Sarvabhauman Associates
-for R4 to R6

No Appearance - for R2

O R D E R
(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The guarantor has filed the above Writ Petition challenging the order passed by the Debt Recovery Appellate Tribunal in A.I.R. No.322 of 2018.

2. Challenging order passed in S.A.No.19 of 2010 on the file of the Debts Recovery Tribunal, Coimbatore, the guarantor filed an appeal in A.I.R. No.322 of 2018, before the Debt Recovery Appellate Tribunal, Chennai.

3. The Debt Recovery Appellate Tribunal, by order dated 01.10.2018, directed the petitioner to make a pre-deposit of Rs.30,00,000/- [Rupees thirty lakhs only]. While giving such direction, the Appellate Tribunal, took into consideration that the 1st respondent-bank had sought for recovery of Rs.90,00,000/- [Rupees ninety lakhs only].

4. Admittedly, the property was sold in the auction on 15.07.2008. The possession notice dated 26.09.2007 was issued by the 1st respondent-bank wherein it was mentioned that a sum of Rs.96,70,090.71/- [Rupees ninety six lakhs seventy thousand ninety and seventy one paise only] together with further interest from 03.07.2003 was due and payable by the borrower and guarantors.

5. When a sum of Rs.96,70,090.71/- was due and payable as on 03.07.2003, the Appellate Tribunal, directing the petitioner to make a pre-deposit of Rs.30,00,000/- [Rupees thirty lakhs only] cannot be stated to be on the higher side.

6. The learned counsel appearing for the petitioner submitted that the property was sold for a sum of Rs.70,00,000/- [Rupees seventy lakhs only] in the year 2008.

7. Therefore, considering the outstanding amount payable by the petitioner, making pre-deposit of Rs.30,00,000/-, is just and proper. In these circumstances, we find no error or irregularity in the order passed by the Appellate Tribunal. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Rj

To

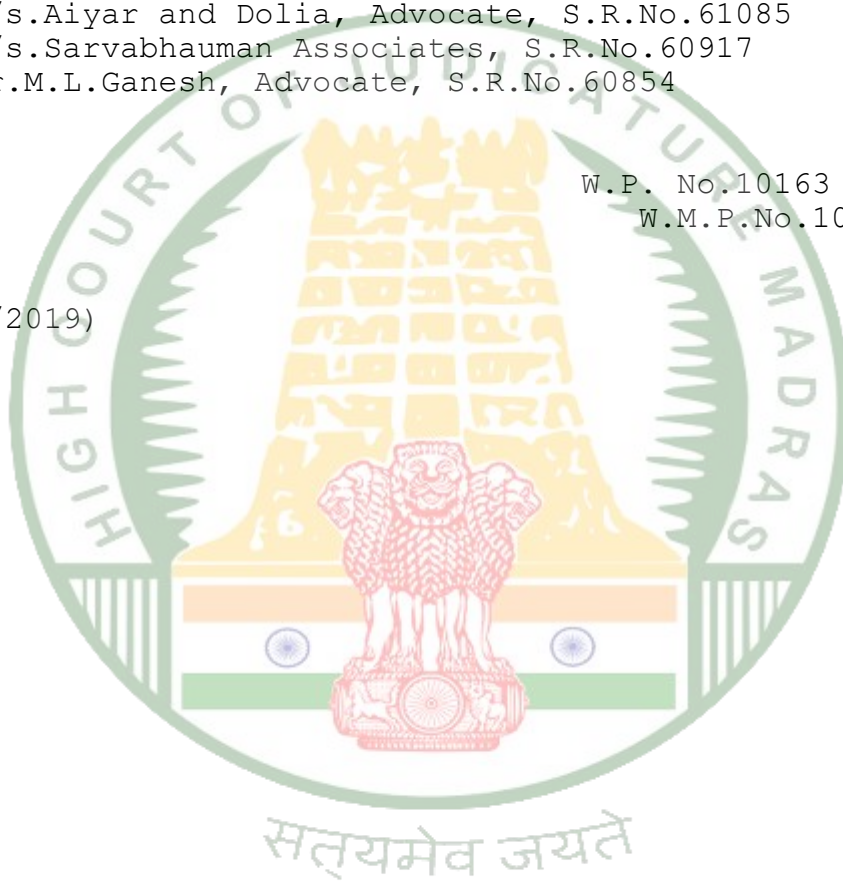
1. The Authorised Officer,
State Bank of India,
Udhagamandalam Branch,
Nilgiris.
2. The Debts Recovery Appellate Tribunal,
No.55, Ethiraj Salai,
Chennai - 600 008.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.61427
+1cc to M/s.Aiyar and Dolia, Advocate, S.R.No.61085
+1cc to M/s.Sarvabhauman Associates, S.R.No.60917
+1cc to Mr.M.L.Ganesh, Advocate, S.R.No.60854

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SKV (CO)

RRS (27/08/2019)



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