

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2019

CORAM :

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

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.11642 of 2019

and

W.M.P.No.11880 of 2019

1 K.Anandapandi
2 K.Manosakthi
3 K.Matcharani ... Petitioners

v.

1 The Registrar
The Debt Recovery Appellate Tribunal,
Chennai.
2 The Authorised Officer,
Housing Development Financing Corporation Ltd.,
No.760 Anna Salai,
Chennai 600 002.
3 Dr.B.Banumathi
4 Dr. V.Balasubramanian .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Certiorari, calling for the records of the order dated 20.03.2019 passed in I.A.No.1405 of 2017 in A.I.R. (S.A) No.291 of 2015 on the file of the 1st respondent, the Debt Recovery Appellate Tribunal, Chennai and quash the same.

For Petitioners : Mr.V.M.Venkatramana

For Respondens : R1 - Tribunal
Mr.K.J. Parthasarathy - for R2
Not Ready in Notice - for R3 & R4

O R D E R

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

The petitioners have filed the above Writ Petition to issue a Writ of Certiorari to call for the records pertaining to the order dated 20.03.2019 passed in I.A.No.1405 of 2017 in A.I.R. (S.A) No.291 of 2015 on the file of the 1st respondent, the Debt Recovery Appellate Tribunal, Chennai and to quash the same.

2. Challenging the order passed in S.A.No.116 of 2010 on the file of the Debt Recovery Tribunal, Madurai, the petitioners filed an Appeal in A.I.R. (S.A) No.291 of 2015 before the Debt Recovery Appellate Tribunal. In the said appeal, the petitioners filed an application in I.A.No.1405 of 2017 for waiver of pre-deposit. However, the Debt Recovery Appellate Tribunal, by the impugned order dated 20.03.2019, directed the petitioners to make a pre-deposit of Rs.90,00,000/- [Rupees ninety lakhs only]. Challenging this order, the petitioners have filed the above Writ Petition.

3. The learned counsel appearing for the petitioners submitted that the respondent-bank issued the possession notice dated 12.06.2010 for a sum of Rs.33,00,383/- [Rupees thirty three lakhs three hundred and eighty three only] and therefore, the Appellate Tribunal should not have directed the petitioners to make a pre-deposit of Rs.90,00,000/-. The learned counsel further submitted that though 25% of the amount mentioned in the possession notice comes to nearly Rs.8,00,000/- [Rupees eight lakhs only], the petitioners are willing to make a pre-deposit of Rs.15,00,000/- [Rupees fifteen lakhs only] within a period of four weeks.

4. The learned counsel appearing for the 2nd respondent also agreed for the said proposal.

5. In these circumstances, we modify the order passed by the Debt Recovery Appellate Tribunal, dated 20.03.2019, by directing the petitioners to make a pre-deposit of Rs.15,00,000/- [Rupees fifteen lakhs only] within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made by the petitioners, the Debt Recovery Appellate Tribunal shall take up the appeal in A.I.R. (S.A) No.291 of 2015 and decide the same on merits and in accordance with law.

With these observations, the Writ Petition is disposed of.
No costs. Consequently, the connected Miscellaneous Petition
is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Rj

To

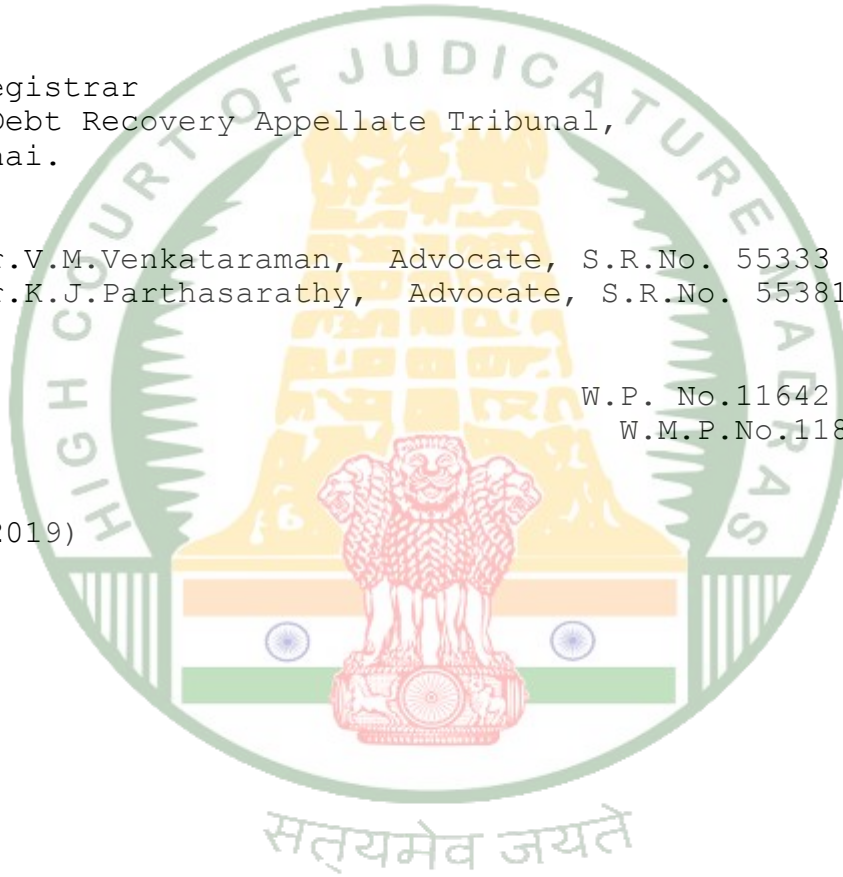
1 The Registrar
The Debt Recovery Appellate Tribunal,
Chennai.

+1cc to Mr.V.M.Venkataraman, Advocate, S.R.No. 55333

+1cc to Mr.K.J.Parthasarathy, Advocate, S.R.No. 55381

W.P. No.11642 of 2019 and
W.M.P.No.11880 of 2019

PPA(CO)
GN(05/08/2019)



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