

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.14605 & 7716 of 2019 and
W.M.P.Nos.14596, 14597, 8360 & 8361 of 2019

1.M.A.S.E.Zullfiyar

2.A.Sharmila

3.A.Paul Raj

... Petitioners in both W.Ps.

Vs.

The Authorized Officer,

REPCO Bank,

No.55, Fourth Main Road,

Adayar, Chennai - 600 020.

... Respondent in both W.Ps.

W.P.No.14605 of 2019 filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari calling for the entire records pertaining to the proceedings dated 15.03.2019 passed in AIR (SA).No.669 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and quash the same.

W.P.No.7716 of 2019 filed under Article 226 of the Constitution of India praying for issue of Writ of certiorari calling for the entire records pertaining to the proceedings dated 15.02.2019 passed in I.A.No.1227 of 2018 in AIR (SA). No.669 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and quash the same.

For Petitioners : Mr.A.Bobblie
(in both W.Ps.)

For Respondent : Mr.P.V.Sanjeev
(in both W.Ps.)

C O M M O N O R D E R
(ORDER OF THE COURT WAS MADE BY M.DURAIWAMY, J.)

W.P.No.7716 of 2019 has been filed by the petitioners to issue a Writ of certiorari to call for the records pertaining to the proceedings dated 15.02.2019 passed in I.A.No.1227 of 2018 in AIR (SA).No.669 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and to quash the same. W.P.No.14605 of 2019 has been filed by the petitioners to issue a Writ of certiorari to call for the records pertaining to the proceedings dated 15.03.2019 passed in AIR (SA).No.669 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and to quash the same.

2.The petitioners filed an appeal in AIR (SA).No.669 of 2018 challenging the order passed in S.A.No.208 of 2017 on the file of the Debts Recovery Tribunal - II, Chennai. In the said appeal, the petitioners filed an application in I.A.No.1227 of 2018 for waiver of pre-deposit.

3.The respondent - Bank issued a notice, dated 06.05.2017, under Section 13(2) of the SARFAESI Act for recovery of a sum of Rs.43.17 lakhs. Taking note of the claim made by the respondent - Bank, the Appellate Tribunal directed the petitioners to make a pre-deposit of Rs.12 lakhs, which is about 25% of the claim made in Section 13 (2) notice. The petitioners were directed to make the pre-deposit within a period of four weeks from 15.02.2019 and for confirmation of the pre-deposit, the Appellate Tribunal posted the matter on 15.03.2019. Since the petitioners did not pay the pre-deposit of Rs.12 lakhs, the appeal was dismissed by the Appellate Tribunal on 15.03.2019. Challenging these two orders, the petitioners have filed the above two Writ Petitions.

4.Under Section 18 of the SARFAESI Act, the petitioners are liable to make pre-deposit of at least 25% of the claim made by the respondent - Bank. The said amount cannot be waived in toto. The Appellate Tribunal has directed the petitioners to make only 25% of the claim made in the Section 13(2) notice. Therefore, the order passed by the Debt Recovery Appellate Tribunal is just and proper.

5.In these circumstances, we do not find any error or irregularity in the orders passed by the Appellate Tribunal. Since the petitioners failed to make the pre-deposit of Rs.12 lakhs, the Tribunal has no other option except to dismiss the appeal for want of compliance of pre-deposit. In these circumstances, the Writ Petitions are devoid of merits and the same are liable to be dismissed. Accordingly, the Writ Petitions

are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

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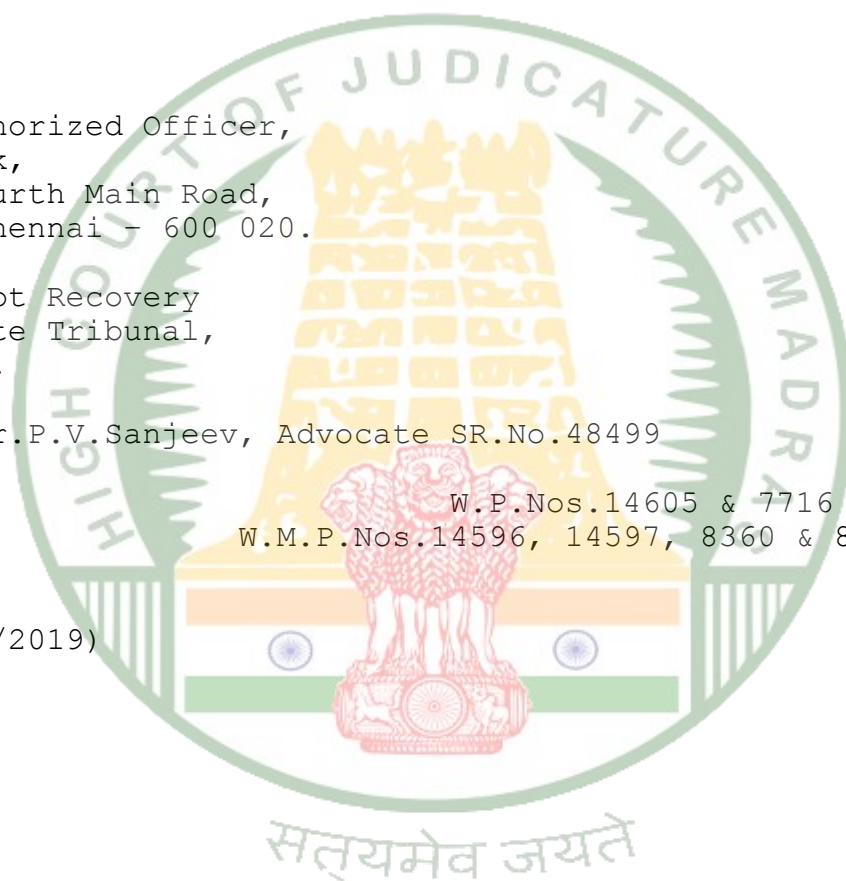
1.The Authorized Officer,
REPCO Bank,
No.55, Fourth Main Road,
Adayar, Chennai - 600 020.

2. The Debt Recovery
Appellate Tribunal,
Chennai.

+1cc to Mr.P.V.Sanjeev, Advocate SR.No.48499

W.P.Nos.14605 & 7716 of 2019 and
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JP(CO)
GMY(11/07/2019)



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