

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAI SWAMY

Civil Revision Petition No.2109 of 2019

and C.M.P.No.13636 of 2019

N.Suresh

.. Petitioner

-vs-

1.The Authorised Officer,
Branch Manager, Indian Bank,
57, East Car Street,
Vilianur Branch, Puducherry 605 110.

2.M/s.Esskay Traders,
Prop.P.A.Sankar, Villupuram Taluk.

3.P.A.Sankar

.. Respondents

Petition filed under Article 227 of the Constitution of India against the order dated 04.06.2019 passed in AIR (SA) No.650 of 2018 on the file of Debt Recovery Appellate Tribunal at Chennai.

For Petitioner : Mr.R.Nalliyappan

For Respondents : Mrs.Rita Chandrasekara
for M/s.Aiyar and Dolia for R-1
: R-2 Left
: No appearance for R-3

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O R D E R

(Order of the Court was made by M.DURAI SWAMY, J.)

The guarantor has filed this Civil Revision Petition challenging the order passed in AIR (SA) No.650 of 2018 dated 04.06.2019 on the file of the Debt Recovery Appellate Tribunal, Chennai, calling upon the petitioner to make a pre-deposit of Rs.20 lakhs.

2.Challenging the order passed in S.A.No.222 of 2018 on the file of Debts Recovery Tribunal-III, Chennai, the petitioner preferred an appeal in AIR (SA) No.650 of 2018 before the Debt Recovery Appellate Tribunal, Chennai. The petitioner filed an application in I.A.No.193 of 2019 for waiver of pre-deposit. The Appellate Tribunal, by order dated 04.06.2019, taking into consideration the amount claimed in the notice issued under Section 13(2) of the SARFAESI act, i.e., Rs.60.29 lakhs, called upon the petitioner to make a pre-deposit of Rs.20 lakhs.

3.As per Section 18 of the SARFAESI Act, the appellant can be directed to make a pre-deposit of 25% of the amount claimed by the secured creditor. If 25% of the amount claimed by the secured creditor is calculated, it comes to Rs.15,07,500/-. However, the Appellate Tribunal has directed the petitioner to make a pre-deposit of Rs.20 lakhs, which is more than 25% of the amount claimed.

4.The learned counsel appearing for the petitioner submitted that the petitioner may be granted five weeks time for making the pre-deposit of Rs.15,07,500/- before the Appellate Tribunal.

5.The learned counsel appearing for the first respondent bank has no objection for granting five weeks time to the petitioner to make the pre-deposit of Rs.15,07,500/-.

6.In view of the submissions made by the learned counsel on either side, we modify the order dated 04.06.2019 by directing the petitioner to make a pre-deposit of Rs.15,07,500/- (Rupees fifteen lakhs seven thousand five hundred only) instead of Rs.20 lakhs as directed by the Debt Recovery Appellate Tribunal, Chennai. The petitioner is directed to make the pre-deposit within a period of five weeks from the date of receipt of a copy of this order. In respect of all other aspects, the order dated 04.06.2019 shall remain unaltered.

With the above modification, the Civil Revision Petition is disposed of. No costs. Consequently, C.M.P.No.13636 of 2019 is closed.

Sd/-

Assistant Registrar(CS V)

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Sub Assistant Registrar

sra

To

The Registrar,
Debt Recovery Appellate Tribunal,
Chennai.

+lcc to M/s.Aiyar and Dolia, Advocate sr.69880
+lcc to Mr.R.Nalliyappan, Advocate sr.69645(21/08/2019)

C.R.P.No.2109 of 2019

ad(co)
nr 20/08/2019



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