IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM :

THE HON'BLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.21508 of 2019
and
W.M.P.No.20712 of 2019

Mr.V.Thirunavukarasu .. Petitioner

Vs

1.Canara Bank,
rep.by its Branch Manager,
Kariapattinam Branch,
Nagapattinam District-614 806

2.Mr.S.Viji @ Visalatchi ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issue of writ of certiorari calling for the records pertaining to the order dated 13.06.2019 made in I.A.No.366 of 2019 in AIR No.88 of 2019, on the file of the Debts Recovery Appellate Tribunal at Chennai and quash the same.

For Petitioner : Mr.S.Arivazhagan

For Respondents : Mr.S.Mohan for
Mr.S.Pandurangan for R1

No appearance for R2

ORDER

(Order of the Court was made by The Hon'ble Acting Chief Justice)

The petitioner/guarantor has filed this writ petition aggrieved by the interlocutory order passed by the Debts Recovery Appellate Tribunal, Chennai, on 13.06.2019, directing the petitioner/guarantor to deposit a sum of Rs.9 lakhs, which is approximately 50% of the outstanding loan amount, as a pre-condition to entertain the appeal.

2.The learned counsel for the petitioner submits that the relative of the petitioner had availed agricultural loan for purchase of tractor and other equipments, in which the petitioner stood as a guarantor and the first respondent bank filed O.A.No.609 of 2014 before the Debts Recovery Tribunal, seeking recovery of the alleged loan amount and the same has been decreed in favour of the first respondent bank. As against the said order, the petitioner filed an appeal before the Debts Recovery Appellate Tribunal, Chennai, which imposed a condition of pre-deposit of 50% of the outstanding loan amount, which is an onerous condition. The learned counsel submitted that even though the relevant provision of the Act permits deposit of 25% of the outstanding loan amount, the learned Debts Recovery Appellate Tribunal has imposed the condition of deposit of Rs.9 lakhs, which is approximately 50% of the outstanding loan amount and therefore, the same deserves to be interfered with.

3.The learned counsel for the first respondent bank, however, would oppose the said submission.

4.Having heard the learned counsels for the parties, we are satisfied that though normally against the interlocutory order of the Debts Recovery Appellate Tribunal, this Court would not interfere, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, however, looking into the nature of loan and the facts of the case, we inclined to reduce the amount of pre-deposit from Rs.9 lakhs to Rs.5 lakhs. Therefore, we direct that if the petitioner makes deposit of Rs.5,00,000/-(Rupees five lakhs only) within a period of two weeks from today, the learned Debts Recovery Appellate Tribunal, Chennai, shall consider the appeal of the petitioner on merits and in accordance with law.

5.With the above observations, the writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk
To:
1.The Branch Manager,
Canara Bank,
Kariapattinam Branch,
Nagapattinam District-614 806.

2.The Debts Recovery Appellate Tribunal at Chennai

+1cc to Mr.S.Pandurangan , Advocate SR.No. 81461
+1cc to Mr.S.Arivazhagan , Advocate SR.No. 81462

W.P.No.21508 of 2019

A.SK(22/10/2019)