

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM:

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NO.21195 OF 2019

Mrs.B.Revathy

..

Petitioner

Vs

1. Rathnakar Bank Ltd.
Branch Office, No.197
6th Cross, Gandhi Nagar, Bangalore.
Represented by its Branch head
at constituted attorney Mr.V.Raghavendra.
2. BBIPL Infrastructure India Pvt. Ltd.
No.19, 5th Cross, Swimming Pool extension
Malleswaram, Bangalore - 560 003.
3. State Bank of India
Mid Corporate loan administration unit
No.61, Residential Plaza, 3rd floor, Residential Road
Bangalore - 560 021.
4. Mr.P.Chittibabu .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, seeking to call for the records in connection with the order passed in AIR 70 of 2017 dated 13.12.2018 and quash the same as being unreasonable and cryptic.

For Petitioner : Ms.K.R.Ananda Gomathy
For Respondents: Mr.V.Adhivarahan for R1
Dr.T.Ramasamy for R3

ORDER

[Order of the Court was made by Dr.VINEET KOTHARI, J]

The only grievance raised in the present petition is that the learned Debt Recovery Appellate Tribunal, Chennai, vide its

impugned order dated 13.12.2018, has not condoned the delay of 443 days in filing the appeal against the order of the Debts Recovery Tribunal, Bangalore, passed in the year 2015, against the present petitioner.

2. The learned counsel for the petitioner submitted that the petitioner had given only limited guarantee for the loan in question taken by the second respondent company, M/s.BBIPL Infrastructure India Pvt.Ltd., wherein her husband was the Managing Director. She further submitted that with the sale of two properties under the provisions of Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the limited guarantee has to be discharged and therefore, the petitioner cannot be held liable for the further debt due and the appeal ought to have been heard by the Debt Recovery Appellate Tribunal on merits and in accordance with law.

3. The learned counsel for the respondent bank does not fairly dispute the request for condonation of delay.

4. In the facts of the case, we are of the opinion that the learned Debt Recovery Appellate Tribunal, Chennai, being the first appellate forum available to the petitioner, ought to have decided the appeal on merits instead of taking a pedantic and narrow approach in dismissing the appeal on the ground of limitation. Further, the delay also been sufficiently explained. The claim of the petitioner that there was a limited guarantee for the loan and the liability stood discharged with the sale of her own property, deserved the attention of the Debt Recovery Appellate Tribunal on merits and in accordance with law.

5. Therefore, we allow the present writ petition by setting aside the order of the Debt Recovery Appellate Tribunal, Chennai dated 13.12.2018 by remitting the matter back to the Debt Recovery Appellate Tribunal, Chennai to decide the appeal on merits and in accordance with law. The parties may appear, at the first instance, before the Debt Recovery Appellate Tribunal on 12.12.2019.

6. With the above directions, the writ petition is allowed.
No costs.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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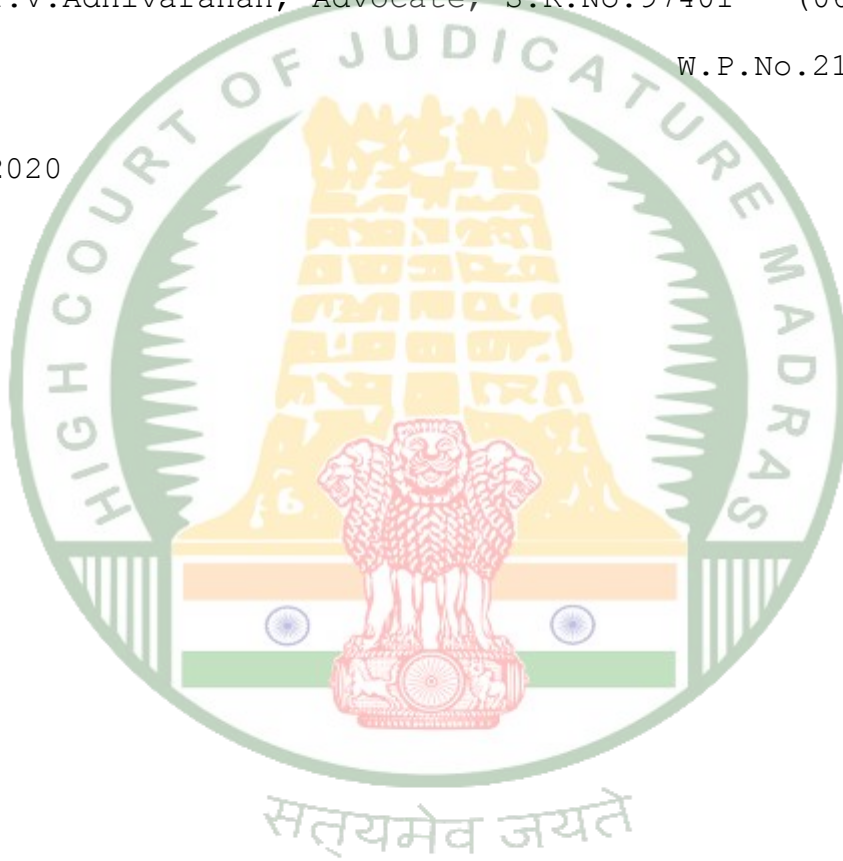
1. The Debt Recovery Appellate Tribunal
Chennai.
2. The State Bank of India,
Mid Corporate loan administration unit
No.61, Residential Plaza, 3rd floor, Residential Road
Bangalore - 560 021.

+1cc to Ms.K.R.Ananda Gomathy, Advocate, S.R.No.97232

+1cc to Mr.V.Adhivarahan, Advocate, S.R.No.97401 (06.02.2020)

W.P.No.21195 of 2019

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