



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.22615 of 2019

S.Asaithambi

.. Petitioner

Vs.

1.The Union Bank of India,
Nungambakkam Branch,
rep by its Chief Manager,
No.37, College Road,
Nungambakkam,
Chennai - 600 034.

2.Metrotek Systems and Solution (P) Ltd.,
No.38, College Road,
Nungambakkam,
Chennai - 600 034.

3.R.Mohanraj

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified mandamus to call for the records and set aside the order passed by the Debt Recovery Appellate Tribunal, Chennai in AIR No.539 of 2015 on 05.05.2017 and consequently, permit the petitioner to deposit the conditional order of pre-deposit amount sum of Rs.20,00,000/- (Rupees Twenty lakhs only) and permit the petitioner to contest M.A.No.543 of 2015 before the Debt Recovery Appellate Tribunal, Chennai on merits.

For Petitioner : Mr.B.Viveka Vanan



O R D E R

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

WEB COPY The petitioner has filed the Writ Petition to issue a Writ of certiorarified mandamus to call for the records and set aside the order passed by the Debt Recovery Appellate Tribunal, Chennai in AIR No.539 of 2015 on 05.05.2017 and consequently, permit the petitioner to deposit the conditional order of pre-deposit of Rs.20,00,000/- and permit the petitioner to contest M.A.No.543 of 2015 before the Debt Recovery Appellate Tribunal, Chennai on merits.

2.Challenging the order passed in O.A.No.25 of 2004 on the file of the Debts Recovery Tribunal - I, Chennai, the petitioner preferred an appeal in AIR No.539 of 2015 on the file of the Debt Recovery Appellate Tribunal. In the said appeal, the petitioner filed an application in I.A.No.673 of 2015 for waiver of pre-deposit. The Debts Recovery Tribunal - I, Chennai decreed O.A.No.25 of 2004 on 08.05.2015 for a sum of Rs.51.87 lakhs. Challenging this order, the petitioner preferred an appeal. Taking into consideration the decree passed by the Debts Recovery Tribunal - I, Chennai, the Appellate Tribunal directed the petitioner to make a pre-deposit of Rs.20 lakhs by order dated 06.04.2017. While giving such direction, the Appellate Tribunal directed the petitioner to make the pre-deposit within four weeks from 06.04.2017 and posted the matter to 05.05.2017. Since the petitioner failed to make the pre-deposit as directed by the Tribunal, the appeal was dismissed for want of compliance of pre-deposit on 05.05.2017. Challenging these orders, the petitioner has filed the Writ Petition.

3.Though these orders were passed as early as on 06.04.2017 and 05.05.2017, the petitioner chose to file the Writ Petition only on 29.07.2019. The petitioner has not explained the reasons for the delay in filing the Writ Petition after a lapse of more than two years.

4.The learned counsel appearing for the petitioner submitted that the petitioner met with an accident and therefore, he could not file the Writ Petition immediately.

5.On a perusal of the materials available on record, it could be seen that the petitioner met with an accident only on 04.04.2018 and was hospitalized only for few days. Therefore, the reasoning given by the learned counsel for the petitioner cannot be accepted.



6. In these circumstances, since there is a delay of more than two years, we are not inclined to interfere with the order passed by the Appellate Tribunal. The Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Chief Manager,
Union Bank of India,
Nungambakkam Branch,
No.37, College Road,
Nungambakkam,
Chennai - 600 034.

Copy To
The Debts Recovery Tribunal, Chennai

+1cc to Mr.B.Viveka Vanan, Advocate SR.No.66056

W.P.No.22615 of 2019

MR (CO)
GMV (08/08/2019)