

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM :

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

W.P.No.26965 of 2019

- 1 M/s.Sinduja and Co.
Rep by its Propriextrix, Mrs.Amereswari
W/o.M.V.Sesha Rao
No.60, Varadha Muthiappa Street
1st floor, Shop No.26
Chennai - 600 001.
 - 2 M/s.Sinduja Enterprises
Proprietor, M.V.Sesha Rao
No.60, Varadha Muthiappa Street
1st floor, Shop No.26
Chennai - 600 001.
 - 3 M/s.Sinduja Exports
Proprietor, M.V.Sesha Rao
No.60, Varadha Muthiappa Street
1st floor, Shop No.26
Chennai - 600 001. ... Petitioners
- Vs
- 1 The Authorised Officer
UCO Bank, Chennai Main Branch
328, Thambu Chetty Street
Chennai - 600 001.
 - 2 K.Babu
 - 3 B.Surya Baskar
 - 4 B.Aruna .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records relating to the order dated 10.7.2017 passed by the Debt Recovery Appellate Tribunal, Chennai in AIR (SA) 133/2019 and quash the same in so far as the same is against the petiitoners.

For Petitioners : Mr.P.Mani

For Respondents : Mr.R.Chandramohan
for Mr.R.Selvakumar
for 1st respondent

No appearance
for respondents 2 to 4

ORDER

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

The petitioners/borrowers have assailed the order dated 10.7.2017 passed by the Debt Recovery Appellate Tribunal, Chennai, whereby the learned Debt Recovery Appellate Tribunal, Chennai, directed a pre-deposit of Rs.2.00 Crores in two instalments against the outstanding of Rs.5.02 Crores for maintaining the appeal under the Third Proviso to Section 18(1) of the SARFAESI Act against the order of the Debts Recovery Tribunal-II, Chennai dated 18.3.2019 in S.A.No.71 of 2018, by which the learned Debts Recovery Tribunal-II, Chennai, was pleased to dismiss the appeal and uphold the sale notice.

2. The learned counsel for the petitioner, Mr.P.Mani, submitted that out of Rs.2.00 Crores, the first instalment of Rs.1.00 Crore has already been deposited by the petitioners with difficulty due to financial crisis and, therefore, he prays for waiver of the remaining deposit of Rs.1.00 Crore and for hearing of the appeal on merits.

3. On the other hand, the learned counsel for the first respondent Bank, Mr.R.Chandramohan, opposed the said submission and urged that though three properties of the petitioners have been sold for a sum of Rs.3.74 Crores, since the sale is under challenge before the learned Debt Recovery Appellate Tribunal, the said amount has not been appropriated by the first respondent Bank so far. Therefore, he justified the impugned order of the learned Debt Recovery Appellate Tribunal, Chennai.

4. Having heard the learned counsel for parties, we are of the opinion that since substantial amount of sale proceeds has already been realised by the first respondent Bank and is lying with the Debts Recovery Tribunal-II, Chennai and part of the pre-deposit condition has also been complied with by the petitioners and the law also provides for range of pre-deposit from 25% to 50% of the debts due, in the facts and circumstances of the case, we consider it appropriate to hold that the said deposit of Rs.1.00 Crore made by the petitioners in part

compliance of the order of the learned Debt Recovery Appellate Tribunal, Chennai, can be treated as sufficient compliance for the purpose of Third Proviso to Section 18(1) of the SARFAESI Act to maintain the appeal on merits.

5. Accordingly, the order of the Debt Recovery Appellate Tribunal, Chennai, dated 10.7.2017 passed in AIR (SA) No.133 of 2019 is modified and we restore the appeal with a request to the learned Debt Recovery Appellate Tribunal, Chennai, to decide the same, after giving reasonable opportunity to both parties. The parties, without any notice from the learned Debt Recovery Appellate Tribunal, Chennai, may appear before it in the first instance on 09.12.2019.

6. With the above observation, the writ petition is disposed of. No costs. Consequently, W.M.P.No.26361 of 2019 is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

bbr

To:

- 1 The Authorised Officer
UCO Bank, Chennai Main Branch
328, Thambu Chetty Street
Chennai - 600 001.
- 2 The Registrar,
Debt Recovery Appellate Tribunal,
Chennai.

+1cc to Mr.P.Mani, Advocate SR.No.90225

+1cc to Mr.R.Selvakumar, Advocate SR.No.90150

W.P.No.26965 of 2019

PA(CO)
GMY(12/11/2019)