

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2019

CORAM:

THE HON'BLE DR. JUSTICE VINEET KOTHARI
and
THE HON'BLE MR. JUSTICE C.SARAVANAN

W.P.No.26886 of 2019
and

WMP.Nos.26282, 26285, 26287 and 26290 of 2019

1.M/s. INMA International Limited
Rep. by its Chairman - Cum- Managing Director,
Sri.G.Rathinavelu
No.251(Old) and 292, Avvai Shanmugamsalai
Gopalapuram, Chennai- 600 086.

And also for service at
No.1-C Rahul Apartments
24 Cenatoph, 1st Street,
Teynampet, Chennai- 600 018.

2. Mr.G.Rathinavelu
3. G.Sundaravadivelu

... Petitioners

..Vs..

Indian Overseas Bank
Rep. by its Assistant General Manager
Cathedral Branch,
No.762, Anna Salai,
Chennai-600 002.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for a Writ of Certiorari to call for the records on the file of the Debts Recovery Appellate Tribunal passed in I.A.No.757 of 2019 in A.I.R.236 of 2019 (R.A. 110 of 2019) dated 28.08.2019 quash the same.

For Appellant : Mr.T.Sai Krishnan
For Respondent : Mr.Benjamin George

O R D E R

(Delivered by DR.VINEET KOTHARI, J.)

This Writ Petition is directed against the order dated 28.08.2019 passed in the Interlocutory Application in I.A.No.757 of 2019, in AIR No.236 of 2019 by the Debts Recovery Appellate Tribunal (DRAT).

2. The petitioner herein approached this Court by way of present writ petition being aggrieved by the order passed by the Debts Recovery Appellate Tribunal on the Application filed by the Respondent-bank, being aggrieved by the order passed by the Debts Recovery Tribunal-II, Chennai on 30.05.2019 in O.S.No.633 of 2016 and counter claim No.06/2018.

3. The learned counsel for the petitioner has submitted before us that on account of the counter claim of the borrower, the application was partly allowed by the learned Debts Recovery Tribunal (DRT) by stating the reasons in paragraph 17. But, ignoring the same, the Debts Recovery Appellate Tribunal has stayed the whole order of the Debts Recovery Tribunal (DRT). Taking advantage of the same, the respondent bank has initiated the proceeding under 2016 Insolvency and Bankruptcy Code under Section 7 of the Act, which would cause serious prejudice to the petitioner-borrower.

4. On the other hand, Mr. Benjamin George, learned counsel who accepted notice on behalf of the Respondent Bank and he urged before us that the counter claim of the borrower was absolutely frivolous and it was filed taking advantage of the CIBIL report with an error, which was immediately corrected, the borrower claimed Rupees 30 crores as damages for loss in business, loss of reputation and mental agony, without any proof. The learned Debts Recovery Tribunal (DRT) observed that the Respondent Bank is not entitled for the interest from the date of sanctioning of financial facilities till the date of filing of O.A., in paragraph 17 of the order and being aggrieved by the same, the Respondent-bank had to file an appeal before the Debts Recovery Appellate Tribunal (DRAT), in which the order passed by the Debts Recovery Tribunal was stayed. He submitted that the respondent bank is also independently entitled to file proceedings under IBC before the National Company Law Tribunal (NCLT).

5. Having heard the learned counsel for the parties, we are of the opinion that the learned Debts Recovery Appellate Tribunal having heard the parties was satisfied and stayed the order of Debts Recovery Tribunal (DRT). Therefore it will not be proper to interfere when the Debts Recovery Appellate Tribunal is still seized of the Appeal filed by the Respondent-Bank. If the petitioner/borrower is aggrieved by the same, he has the remedy of seeking modification of the interim order on the stated grounds. When the competent authority is seized of the matter, we are not inclined to express any opinion on the rival contentions raised before us. Therefore, in the present Writ Petition no interference by this Court at this stage is required to be made.

In the result, this Writ Petition is dismissed with the aforesaid liberty to the petitioner. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr

To

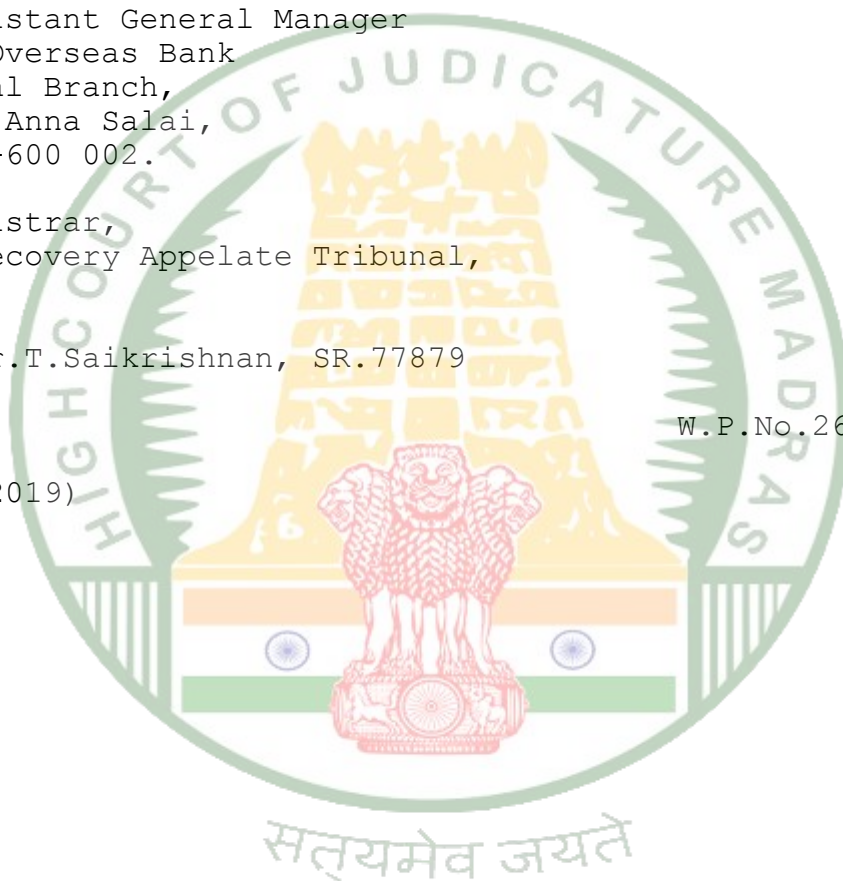
1.The Assistant General Manager
Indian Overseas Bank
Cathedral Branch,
No.762, Anna Salai,
Chennai-600 002.

2.The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.

+1cc to Mr.T.Saikrishnan, SR.77879

W.P.No.26886 of 2019

PVS(CO)
CB(07/11/2019)



WEB COPY