IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2019

CORAM:

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26788 of 2019

Tmt.Meenakshi .. Petitioner

Vs

The Authorised Officer
Central Bank of India
Regional Office at No.14/15
Variety Hall Road
Coimbatore - 641 001. .. Respondent

Writ Petition filed under Article226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records of the learned Debt Recovery Appellate Tribunal, Chennai dated 27.08.2019 made in I.A.No.689 of 2019 in A.I.R.No.253 of 2019 so as to quash the same and consequently directing the petitioner to deposit a sum of Rs.12.75 laksh towards pre-deposit in the waiver application in I.A.No.689 of 2019 in A.I.R.No.253 of 2019 on the file of the learned Debt Recovery Appellate Tribunal and pass such further or other orders.

For Petitioner : Mr.G.Jeremiah for Mr.B.Nambiselvan

For Respondent : Mr.M.L.Ganesh

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

The petitioner/guarantor approached this Court by way of this writ petition aggrieved by the order dated 27.08.2019 in I.A.No.689 of 2019 in A.I.R.No.253 of 2019 [Tmt. Meenakshi Vs. The Authorised Officer, Central Bank of India, Coimbatore], whereby the learned Debt Recovery Appellate Tribunal, Chennai [hereinafter referred to as 'DRAT'] directed the petitioner to deposit a sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) with the Registrar of DRAT within four weeks to entertain the appeal in terms of second proviso to Section 18(1) of the SARFAESI Act (hereinafter referred to as 'the Act').

2. Learned counsel for the petitioner urges that the secured asset of the petitioner/guarantor has already been sold by the respondent bank for about Rs.34,00,000/- (Rupees Thirty four lakhs only) as against the demand due of Rs.51.36 lakhs as on 03.06.2016 as per notice under Section 13(2) of the said Act and therefore, the requirement to pay Rs.30,00,000/- (Rupees Thirty Lakhs only) is much more than the minimum 25% of the debt due.

3. On the other hand, learned counsel for the respondent bank submitted that the Hon'ble Supreme Court has held that the requirement to pay minimum 25% of debt due, cannot be waived by the learned DRAT Tribunal and since the debt due as on 03.06.2016 was Rs.51.36 lakhs, even after adjustment of sale price of Rs.34 lakhs, the net amount was due with further interest. When the appellant wanted to challenge the said sale before DRAT, the DRAT has rejected the application under Section 18 of the Act stating that payment of Rs.30 lakhs is in accordance with the second proviso to Section 18(1) of the Act.

4. Having heard the learned counsel for the parties, we are of the opinion that without going into the merits of the rival contentions, in the facts and circumstances of the case, the DRAT may entertain the appeal on the merits of the case, provided the appellant deposits a sum of Rs.20 lakhs as against Rs.30 lakhs directed by it within a period of four weeks from today. It is made clear that no further extension of time shall be granted under any circumstances to the petitioner/guarantor. If the deposit is made with the Tribunal within four weeks from today by the petitioner, then the appeal may be entertained and heard on merits.

5. This writ petition is accordingly disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Debt Recovery Appellate Tribunal,
   Chennai

2. The Authorised Officer
   Central Bank of India
   Regional Office at No.14/15
   Variety Hall Road
   Coimbatore - 641 001.

+1cc to Mr.B.Nambiselvan, Advocate in sr.no.81226
+1cc to Mr.S.Arunkumar, Advocate in sr.no.81210

W.P.No.26788 of 2019

VD(CO)
CS/25/09/2019