

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.9.2019

CORAM

THE HONOURABLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.28498 & 28500 of 2019

Pradeep Kothari

Petitioner

Versus

1. Tamilnad Mercantile Bank Ltd.,
Pondy Bazaar Branch,
31, Theagarayar Road,
Chennai 600 017.
2. M/s.Moolchand Exports Ltd.,
rep. by its Official Liquidator,
High Court, Chennai 104.
3. Mr.Moolchand Kothari

Mr.B.K.Kothari (deceased)
4. Mr.Santhosh Kumar Kothari
5. Mr.Jayaprakash Kothari
6. Mr.Om Prakash Kothari
7. Ms.Kasturibai
rep. by Power of Attorney Holder
R.Murali
8. Mrs.Indirani Kailash
9. Mrs.Shakuntala
10. M/s.Reeta Bottling Company,
Suvarna Dharshan
D.No.47, II Main Road,
Kottur Village, Gandhi Nagar,
Chennai 600 020.
11. Mr.P.S.Kannan
12. Mr.Alagia Nambi
13. Mr.Mohan
14. Mr.A.D.Ravirajan
15. Mr.A.T.Sudharshan
16. Mr.Yousuf

17. B.K.Metal Products
55, Godown Street,
Chennai 600 001.
18. Mrs.Kasthuri Devi Kothari
19. Mrs.Rajkumar Bisani
20. Mrs.Saroj Kumar Rathi

Respondents

Prayer in W.P.No.28498/19: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for records with regard to the impugned proceedings dated 25.4.2017 passed in M.A.No.104 of 2011 on the file of the Debt Recovery Appellate Tribunal, Chennai and also order dated 28.6.2017 passed in M.A.No.104 of 2011 on the file of the Debt Recovery Appellate Tribunal, Chennai and quash the same and further direct the Hon'ble Debt Recovery Appellate Tribunal, Chennai to allow the Petitioner to deposit the amount of Rs.1,50,00,000/- (Rupees One Crore and Fifty Lakhs only) with the Registrar of DRAT, Chennai as pre-deposit amount under Section 21 of the RDDBFI Act, 1993 and to hear the appeals on merits.

Prayer in W.P.No.28500/19: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for records with regard to the impugned proceedings dated 25.4.2017 passed in M.A.No.105 of 2011 on the file of the Debt Recovery Appellate Tribunal, Chennai and also order dated 28.6.2017 passed in M.A.No.105 of 2011 on the file of the Debt Recovery Appellate Tribunal, Chennai and quash the same and further direct the Hon'ble Debt Recovery Appellate Tribunal, Chennai to allow the Petitioner to deposit the amount of Rs.1,50,00,000/- (Rupees One Crore and Fifty Lakhs only) with the Registrar of DRAT, Chennai as pre-deposit amount under Section 21 of the RDDBFI Act, 1993 in M.A.No.104 of 2011 and to hear the appeal in M.A.No.105 of 2011 on merits.

For Petitioner : Mr.N.V.Srinivasan for
Mr.C.Prasanna Venkatesh

COMMON ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

These Petitions are directed against the order dated 25.4.2017 regarding the pre-deposit to be made before the Debts Recovery Appellate Tribunal, Chennai, wherein the learned DRAT had directed the Petitioner/ Borrower to deposit a sum of Rs.1.04 Crores with the Registry of the said Tribunal for

maintaining the said Appeal before the DRAT against the order dated 17.1.2011 passed by DRT-II, Chennai in I.A.No.7642/2010 in O.A.No.109 of 2007.

2. Learned counsel for the Petitioner/Borrower submitted that though the Petitioner is now in a position and willing to deposit a sum of Rs.1.50 crores which is inclusive of interest, rather than the amount of Rs.1.04 crores as directed by the DRAT, the Registry of the said Tribunal has not accepted the application.

3. We are little surprised and anguished about the practice of the DRAT in not entertaining and returning the Applications by the Registry of DRAT itself. Any Application filed by any party has to be necessarily dealt with by the learned Members of the Bench alone and the Registry cannot be permitted to have any power or take any decision in this regard.

4. Therefore, we direct that if the Petitioner files any Application alongwith deposit as submitted by the learned counsel for the Petitioner, the same should be placed before the learned Bench of the DRAT for appropriate Judicial orders in the matter. With these observations, the Writ Petitions are disposed of. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

ssk.

To:

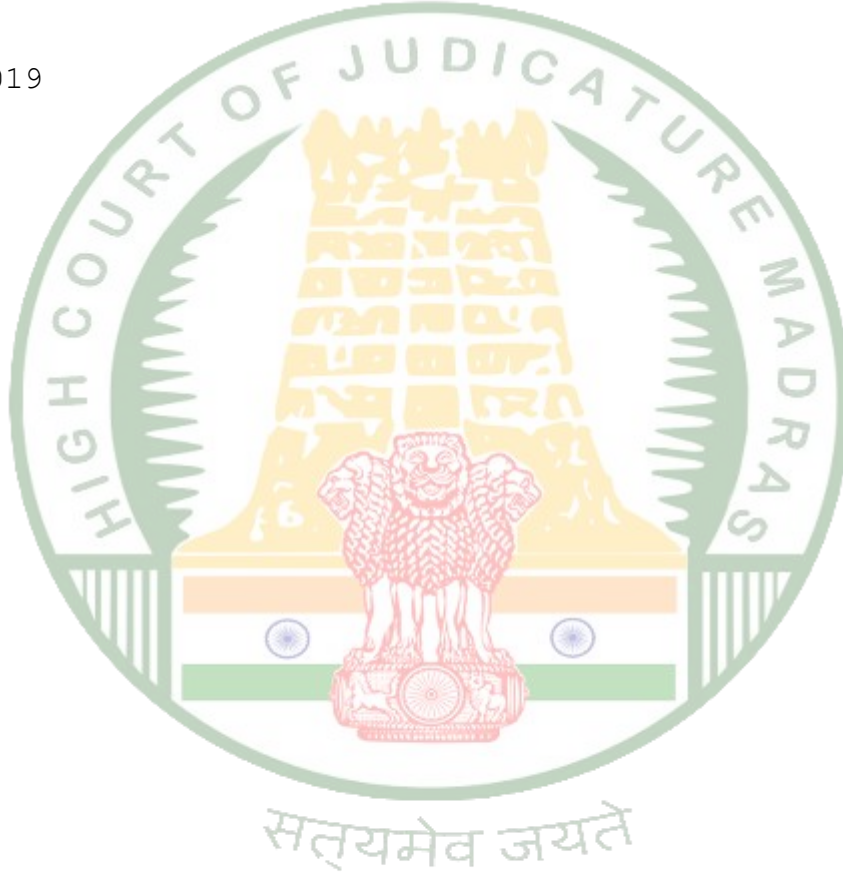
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Chennai 600 017.
2. The Official Liquidator rep by its
M/s.Moolchand Exports Ltd.,
official Liquidator
High Court, Chennai 104.

3. The Debts Recovery Tribunal
chennai

4.The Registrar Debts Recovery
Appellate Tribunal
Chennai

+2 cc to Mr.C.Prasana Venkatesh Advocate sr84646 & 84647
W.P.Nos.28498 & 28500/2019

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