

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM :

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

W.P.No.30481 of 2019

E.Kumar

.. Petitioner

-vs-

1.The Authorised Officer,
Kotak Mahindra Bank Ltd.,
No.3, Das India Ltd., Chennai - 1.

2.The Registrar,
Debt Recovery Tribunal,
Chennai - 600 002.

3.The Registrar,
Debt Recovery Appellate Tribunal,
Chennai - 600 006.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records of the third respondent order passed in AIR No.611 dated 12.04.2019 which is culminating with the order of the second respondent in S.A.No.295 of 2014 dated 07.08.2017 and quash the same and direct the third respondent to restore the appeal and proceed.

For Petitioner : Mrs.G.Devi

ORDER

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

The petitioner/borrower, E.Kumar, son of C.Elumalai, No.36, Surapattu Main Road, Puthagaram, Chennai-99, is aggrieved by the order dated 12.04.2019 passed in AIR (SA) No.611 of 2018, whereby the learned Debt Recovery Appellate Tribunal, Chennai, has rejected the appeal of the petitioner for want of pre-deposit of the minimum amount as per Third Proviso to Section 18 (1) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act").

2. The learned counsel for the petitioner, Mrs.G.Devi, pointed out that earlier, on 15.03.2019, the learned Debt Recovery Appellate Tribunal, Chennai, had passed an order directing the petitioner to deposit a sum of Rs.17.00 lakhs, which was 50% of the debts due shown in the notice under Section 13(2) of the SARFAESI Act at Rs.35.96 lakhs. The learned counsel further submitted that the petitioner is ready and willing to deposit a sum of Rs.10.00 lakhs within a period of one week from today and subject to that, the auction proposed to be held on 15.11.2019 of the assets of the petitioner may be stayed.

3. Since the provisions of the SARFAESI Act permit the range of pre-deposit from 25% to 50%, taking a sympathetic view of the matter, we are of the opinion that if the petitioner deposits a sum of Rs.10.00 lakhs (Rupees Ten Lakhs) within a period of one week from today, the learned Debt Recovery Appellate Tribunal, Chennai, may consider the appeal of the petitioner on merits and in accordance with law. The petitioner, with proof of deposit, may appear before the learned Debt Recovery Appellate Tribunal, Chennai, in the first instance on 06.11.2019 and the learned Debt Recovery Appellate Tribunal, Chennai, may proceed and pass appropriate orders in the appeal preferred by the petitioner. We make it clear that no extension of time, nor any reduction of amount will be entertained under any circumstances.

4. With the above observation, the writ petition is disposed of. No costs. Consequently, W.M.P.No.30509 of 2019 is closed.

bbr

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Authorised Officer,
Kotak Mahindra Bank Ltd.,
No.3, Das India Ltd.,
Chennai - 1.

2.The Registrar,
Debt Recovery Tribunal,
Chennai - 600 002.

3.The Registrar,
Debt Recovery Appellate Tribunal,
Chennai - 600 006.

+1cc to Mr.V.Raghupathi, Advocate, SR.No.90061
(DATED: 31/10/2019)

W.P.No.30481 of 2019

Kak(25/10/2019)



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