

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.32710 of 2017 and
W.M.P.Nos.36026 & 36027 of 2017

1.V.R.Shivadasan

2.Arundathi

.. Petitioners

Vs.

1.M/s.Asset Reconstruction Company (India) Ltd.,
Branch Office at Flat No.305,
3rd Floor Kedia Arcade,
No.92, Infantry Road,
Bangalore - 560 001,
rep by its Officer Harish Kumar G

2.M/s.Edifice Builders Pvt Ltd.,
Edifice Cube, No.P# & P4, Sector - 12,
10th Main, Jeevan Bheema Nagar Main Road,
HAL III Stage, Bangalore - 560 075
rep by its Authorized Signatory and Director
Nikhil Thard
also at
M/s.Edifice Builders Pvt Ltd.,
Registered Office at No.353, 7th Main,
HAL 2nd Stage, Near Indira Nagar club,
Indiranagar, Bangalore - 560 038.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus to call for the records on the file of the Debt Recovery Appellate Tribunal, Chennai in I.A.No.1244 of 2017 in AIR No.364/2017 dated 10.11.2017 and quash the same by ordering waiver of pre-deposit amount to entertain the appeal and consequently to restore AIR No.364/2017 which was dismissed on 10.11.2017 on the file of the Debts Recovery Tribunal, Chennai.

For Petitioners: Mr.Ralph V.Manohar

For Respondents: Mr.P.Rajendran

for M/s.V.Jayachandran Associates (R1)
R2 - not ready in notice

O R D E R

(Order of the Court made by the Hon'ble Chief Justice
and M.Duraiswamy, J.)

The petitioners have filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records pertaining to the order dated 10.11.2017 passed in I.A.No.1244 of 2017 in AIR No.364/2017 on the file of the Debt Recovery Appellate Tribunal, Chennai and to quash the same by ordering waiver of pre-deposit amount to entertain the appeal and consequently to restore AIR No.364/2017 which was dismissed on 10.11.2017.

2.Challenging the order passed in T.A.No.96 of 2017 on the file of the Debts Recovery Tribunal - II, Bangalore, the petitioners have filed an appeal in AIR.No.364 of 2017 before the Debt Recovery Appellate Tribunal, Chennai along with an application in I.A.No.1244 of 2017 to waive the pre-deposit.

3.The Appellate Tribunal, by order dated 13.10.2017, directed the petitioners to make a pre-deposit of Rs.20 lakhs within four weeks time. Since the petitioners did not comply with the said order, by order dated 10.11.2017, the Appellate Tribunal dismissed the appeal for want of compliance.

4.It is pertinent to note that originally State Bank of India filed O.A.No.1526 of 2013 before the Debts Recovery Tribunal, Bangalore for recovery of a sum of Rs.63,47,509/- together with interest and for other reliefs. The said O.A. was subsequently transferred and re-numbered as T.A.No.96 of 2017. Therefore, when the claim made by the secured creditor was Rs.63,47,509/- as early as in the year 2013, fixing the pre-deposit amount at Rs.20 lakhs is just and proper. The Appellate Tribunal, taking into consideration all these aspects, rightly directed the petitioners to make a pre-deposit of Rs.20 lakhs.

5.In these circumstances, we do not find any ground to interfere with the order passed by the Debt Recovery Appellate Tribunal, Chennai. The petitioners are granted four weeks time to make a pre-deposit of Rs.20 lakhs before the Registry of the Debt Recovery Appellate Tribunal, Chennai.

6.With these observations, the Writ Petition is dismissed.
No costs. Consequently, the connected miscellaneous petitions
are closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

va
To

1. The Debts Recovery Tribunal
Chennai.

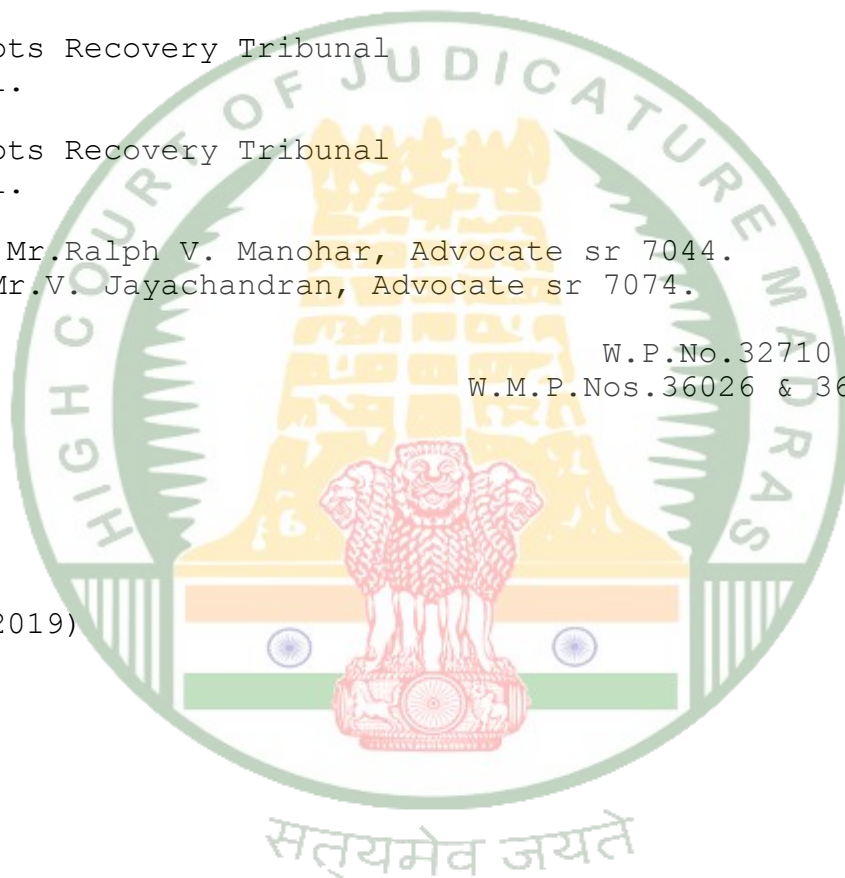
2. The Debts Recovery Tribunal
Chennai.

+2 Ccs to Mr.Ralph V. Manohar, Advocate sr 7044.

+1 CC to Mr.V. Jayachandran, Advocate sr 7074.

W.P.No.32710 of 2017 and
W.M.P.Nos.36026 & 36027 of 2017

SR(CO)
SP(13/02/2019)



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