

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD) No.3459 of 2017

1. Tmt.Suriaykala
2. Tmt.Karthikeyani

... Petitioners

v.

1. The Authorised Officer,
State Bank of Bikaner and Jaipur,
No.244, L.G.B. Complex,
Big Bazaar Street,
Coimbatore.

2. S.Velliangiri

3. M/s. Jai Maruthi Energies Pvt. Ltd.
Rep. By its Director, Senthilkumar,
C-295, Cheran Managar,
Vilankurichi Road,
Coimbatore – 641 035.

4. Mr.Karthikeyan

5. Mr. Kalselvan

6. Mr.S.Senthilkumar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 03.08.2017 passed in A.I.R.(SA) No.31 of 2017 on the file of the Debt Recovery Recovery Tribunal, Chennai against the order dated 31.08.2017 passed in I.A.No.179 of 2016 in S.A.No.25 of 2016 on the file of the Debts Recovery Tribunal, Coimbatore.

For Petitioner : Mr.P.Ulaganathan

For Respondents : Mr.M.L.Ganesh – for R1

ORDER

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioners, who are the daughters of the 2nd respondent-the borrower, have filed the above Civil Revision Petition challenging the order passed in A.I.R.(SA) No.31 of 2017 on the file of the Debt Recovery Appellate Tribunal, Chennai, which appeal was filed against the order passed in I.A.No.179 of 2016 in S.A.No.25 of 2016 on the file of the Debts Recovery Tribunal, Coimbatore.

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2. The petitioners have filed S.A.No.25 of 2016 before the Debts Recovery Tribunal, Coimbatore, challenging the e-auction sale notice dated 13.01.2016. In the said Securitisation Appeal, the petitioners filed an

application in I.A.No.179 of 2016 seeking for an order of interim injunction. The Debts Recovery Tribunal, by order dated 24.11.2016, dismissed the said application in I.A.No.179 of 2016. Aggrieved over the same, the petitioners have filed an appeal in A.I.R.(SA) No.31 of 2017 before the Debt Recovery Appellate Tribunal, Chennai. The Appellate Tribunal, by order dated 03.08.2017, directed the petitioners to make a pre-deposit of Rs.33,00,000/- [Rupees thirty three lakhs only] in two installments. Challenging this order, the petitioners have filed the above Civil Revision Petition.

3. The learned counsel appearing for the petitioners submitted that since the petitioners have challenged only the dismissal of the Interlocutory Application, the Appellate Tribunal, should not have directed them to make the pre-deposit. In support of his submission, the learned counsel appearing for the petitioners, relied upon a judgment reported in **2019(3) CTC 497 [Sree Jeya Soundharam Textile Mills Pvt. Ltd. v. Canara Bank, Rep. By its Manager, Tirupur and others]**.

4. In the Judgment relied upon by the learned counsel for the petitioners, we have held that the liability of pre-deposit under Section 18

of the SARFAESI Act and under Section 21 of the Recovery of Debts and Bankruptcy Act, 1993, would attract only when an appeal is filed against an order determining the liability. Other than such an order, if appealed, the provisions of Section 18 of the SARFAESI Act and Section 21 of the 1993 Act are not attracted. Therefore, in respect of the appeals filed as against the Interlocutory orders, where liability is not determined, the appellants are not liable to make the pre-deposit.

5. In the case on hand, the petitioners have challenged the Interlocutory Application in I.A.No.179 of 2016 in S.A.No.25 of 2016 seeking for an order of interim injunction. Since no liability was determined in I.A.No.179 of 2016, the petitioners are not liable to make any pre-deposit.

6. Applying the ratio laid down in the judgment reported in **2019(3) CTC 497 [cited supra]** the order passed by the Debt Recovery Appellate Tribunal, Chennai in A.I.R.(SA) No.31 of 2017 is liable to be set aside. Accordingly, the same is set aside. The Debt Recovery Appellate Tribunal is directed to number the appeal filed by the petitioners as against the order passed in I.A.No.179 of 2016 in S.A.No.25

of 2016 and decide the appeal, on merits and in accordance with law, without insisting the petitioners to make pre-deposit.

With these observations, the Civil Revision Petition is allowed. No costs.

(V.K.T., CJ.)

(M.D., J.)

21.06.2019

Index : Yes/No

Speaking Order/Non Speaking Order

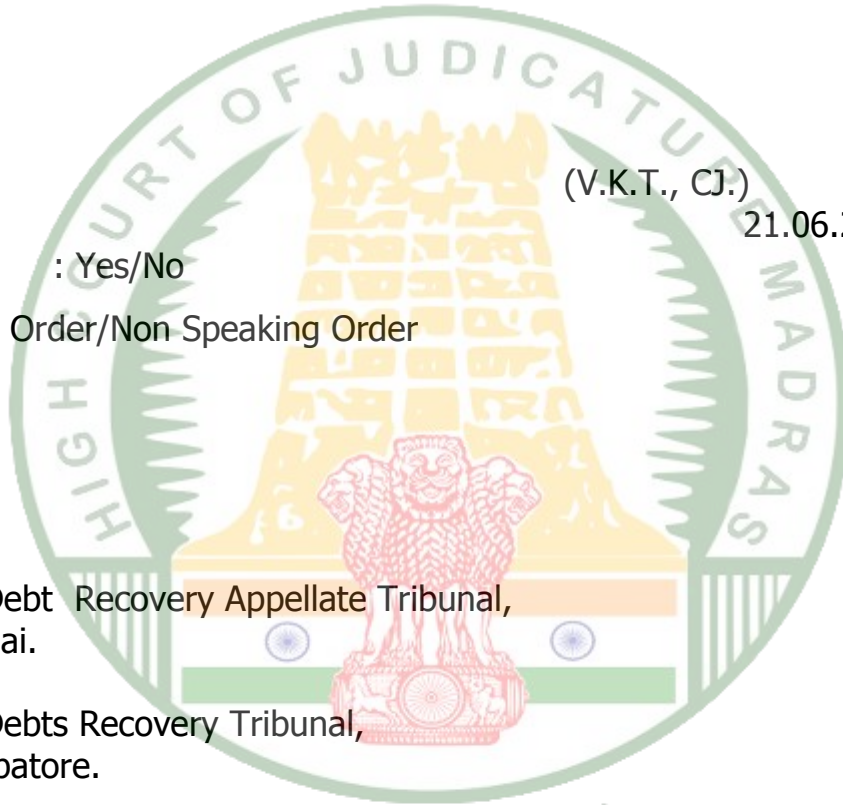
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To

1. The Debt Recovery Appellate Tribunal,
Chennai.

2. The Debts Recovery Tribunal,
Coimbatore.

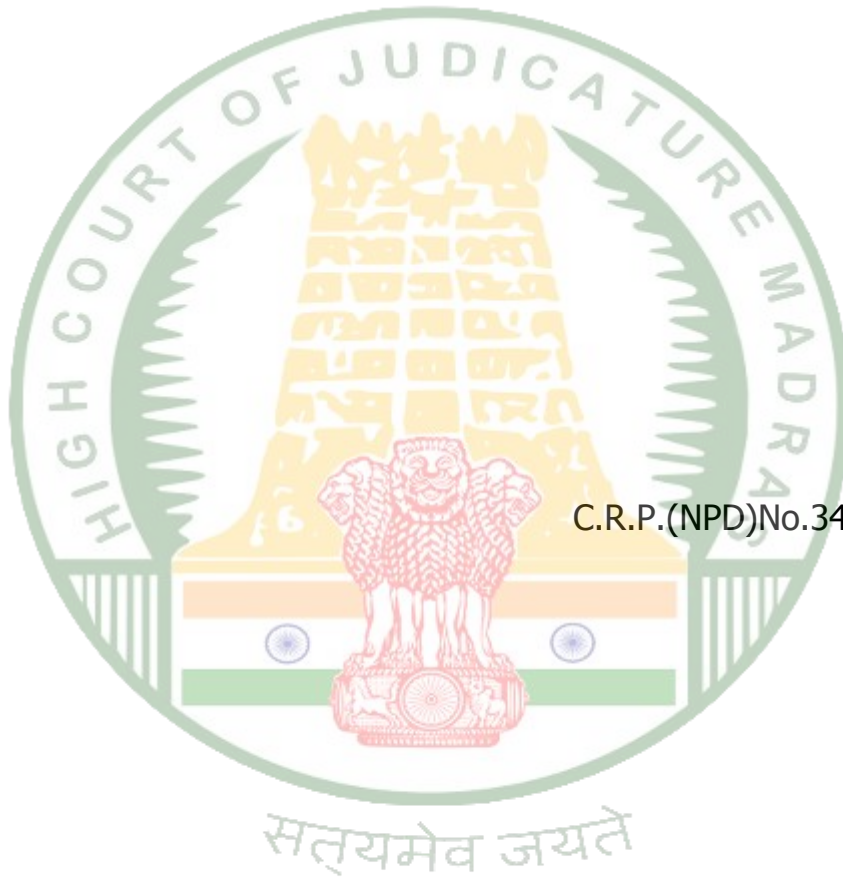
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THE HON'BLE CHIEF JUSTICE
AND
M. DURAISWAMY,J.

Rj



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