

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 1.11.2019

CORAM

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

W.P.No.30991 of 2019
and
W.M.P.No.31090 of 2019

Mrs.Bhargavi Reddy
rep. by her Power of Attorney
Mr.P.Rajaram

Petitioner

Versus

1. ICICI Bank Ltd.,
rep. by its Authorised Officer,
ICICI Regional Tower,
24, S.P.Arihant Insight,
2nd Floor, East Wing DSWG,
Ambattur Industrial Estate,
Ambattur, Chennai 600 058.
2. Mr.S.Ravindranathan
3. The Registrar,
The Debt Recovery Appellate Tribunal,
55, Ethiraj Salai, Chennai 600 008.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records in I.A.No.932/2019 in AIR 334/2019 dated 24.10.2019 on the file of the 3rd Respondent and quash the same as illegal, arbitrary and consequentially direct the 3rd Respondent of the Debt Recovery Appellate Tribunal, Chennai to number the Appeal for adjudication on merits.

For petitioner : Ms.V.Yashwini

ORDER

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

This Petition has been filed against the order dated 24.10.2019 directing the Petitioner to make a pre-deposit of Rs.2 Crores for maintaining the Appeal in question.

2. The learned counsel for the Petitioner submitted that the Petitioner is neither the borrower nor the guarantor and she came to possession of the property in question on the basis of a lease deed prior to the date of mortgage and therefore, she is exempted from the condition of making pre-deposit and the DRAT could not have asked for pre-deposit in view of the decision in Mardia Chemicals Limited v. Union of India ((2004) 4 SCC 311) and the decision of a Division Bench of this Court in Sree Jeya Soundharam Textile Mills Pvt. Ltd v. Canara Bank and others (C.R.P.(NPD) No.1492 of 2017, etc. decided on 11.4.2019) which has been followed by this Bench in the case of M/s.Ashok Wood Works and another v. Indian Overseas Bank (W.P.No.22981 of 2019 dated 30.9.2019).

3. In view of the above decisions, the Petitioner should approach the DRAT forthwith and the learned DRAT is expected to entertain the Appeal without insisting for pre-deposit and pass appropriate orders in accordance with law, within a period of four weeks from today. Status quo shall be maintained for a period of four weeks and thereafter, it will be governed by the further orders to be passed by the DRAT.

4. With the above observation, the Writ Petition is disposed of. No costs. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

ssk.

To:

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2. The Registrar,
The Debt Recovery Appellate Tribunal,
55, Ethiraj Salai, Chennai 600 008.

+1cc to Ms.V.Yashwini, Advocate SR.No.90894 (07/11/2019)
W.P.No.30991 of 2019

RSI (CO)
GMY (04/11/2019)