

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI  
AND  
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.32561 of 2019  
and  
W.M.P.No.32934 of 2019

M/s.Pacific Print Forms  
rep. by its Proprietrix J.Kavitha  
No.6, Panchayat Road,  
1st Floor, Perungudi,  
Chennai 600 096.

... Petitioner

Versus

1. State Bank of India,  
rep. by its Manager,  
SME Centre,  
No.5, Jawaharlal Nehru Road,  
Ekkaduthangal,  
Chennai 600 032.

2. The Debts Recovery Appellate Tribunal,  
rep. by its Registrar,  
Chennai 600 008.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the 2nd Respondent in AIR No.507 of 2018 proceedings dated 13.12.2018 and the consequential order in AIR No.507 of 2018 dated 10.1.2019 and quash the same and further direct the 2nd Respondent to hear the appeal of the petitioner in AIR No.507 of 2018 on merits.

For Petitioner : Mr.M.Rajasekar

ORDER

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

This Petition has been filed against the impugned order of the learned DRAT dated 13.12.2018 whereby the learned DRAT has directed the Petitioner to make a pre-deposit a sum of

Rs.10,00,000/- being approximately 1/3 of Rs.31.66 Lakhs decreed by the learned DRT in favour State Bank of India/Decree-holder for maintaining the Appeal filed by the Petitioner.

2. The learned counsel for the Petitioner, Mr.M.Rajasekar submitted that the Petitioner did not have sufficient fund to comply with the said condition of pre-deposit at that time and therefore, the Appeal came to be dismissed by the learned DRAT on 10.1.2019, but, now, since the Respondent Bank has also filed Appeal in R.A.No.183 of 2018 against the order of the DRT in O.A.No.654 of 2016 and the said Appeal in R.A.No.183 of 2018 is listed for hearing on 11.12.2019, the present Petitioner has now managed to make the pre-deposit of Rs.10,00,000/- as directed by the learned DRAT and the Appeal of the Petitioner/Borrower may be revived and tagged alongwith Appeal in R.A.No.183/2018 filed by the Respondent, State Bank of India and both may be directed to be decided together by the DRAT.

3. Having heard the learned counsel for the Petitioner, we are of the opinion that though the Appeal of the Petitioner was dismissed long ago in the month of January 2019, since the Appeal filed by the Respondent, State Bank of India is still pending and is said to be listed for hearing on 11.12.2019, in the interest of justice, the Petitioner/Borrower can also be permitted to revive his Appeal subject to compliance of the condition for pre-deposit even now.

4. Accordingly, we direct that if the Petitioner makes a pre-deposit of Rs.10,00,000/- within a period of two weeks from today the Appeal of the Petitioner/Bank shall stand revived and the same may be tagged alongwith R.A.No.183 of 2019 filed by State Bank of India and both the Appeals may be decided by the learned DRAT simultaneously on merits and in accordance with law.

5. With this observation, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed. Copy of this order may be sent to the Respondent Bank and the learned DRAT forthwith.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1.The Manager,  
State Bank of India,  
SME Centre,  
No.5, Jawaharlal Nehru Road,  
Ekkaduthangal,  
Chennai 600 032.
2. The Registrar,  
The Debts Recovery Appellate Tribunal,  
Chennai 600 008.
3. The Proprietrix J.Kavitha  
M/s.Pacific Print Forms  
No.6, Panchayat Road,  
1st Floor, Perungudi,  
Chennai 600 096.

+1cc to Mr.M.Raja Sekhar, Advocate Sr.96714

W.P.No.32561 of 2019

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srg 25/11/2019



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