

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.31449 of 2018 and

W.M.P.No.36646 of 2018

1.T.John Issac

2.T.S.Kumari Thangam

.. Petitioners

Vs.

1.Indian Overseas Bank,
No.1, New Street, Super Bazaar Complex,
Alandur, Chennai - 600 016
rep by its Senior Manager,
A.Sankaravadivel

2.M/s.NPS Tech Molds Pvt. Ltd.,
rep by its Directors,
No.266, SIDCO Industrial Estate,
Thirumudivakkam,
Chennai - 600 044.

3.N.Muthuramalingam

4.M.Dhanalakshmi

5.V.Parthasarathy

6.Venkataramani Uma

7.R.Pattabiraman

8.P.Shyamala

9.Joel Nilbert Joe

10.D.Saroja

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorari calling for the records on the file of the Debt Recovery Appellate Tribunal, Chennai in respect of order dated 13.06.2018 made in I.A.No.301 of 2018 in AIR No.94 of 2018 in O.A.No.482 of 2016 on the file of the Debts Recovery Tribunal - II, Chennai and quash the same.

For Petitioners : Mr.Prabakaran, Senior Counsel
for M/s.G.Desingu
For Respondents : Mr.F.B.Benjamin George (R1)
R2 to R10 - service awaited

O R D E R
(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioners have filed the above Writ Petition to issue a Writ of certiorari to call for the records on the file of the Debt Recovery Appellate Tribunal, Chennai in respect of order dated 13.06.2018 made in I.A.No.301 of 2018 in AIR No.94 of 2018 in O.A.No.482 of 2016 on the file of the Debts Recovery Tribunal - II, Chennai and to quash the same.

2.Challenging the order passed in O.A.No.482 of 2016 on the file of the Debts Recovery Tribunal - II, Chennai, the petitioners preferred an appeal in AIR.No.94 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai. In the said appeal, the petitioners filed an application in I.A.No.301 of 2018 for waiver of pre-deposit.

3.The Appellate Tribunal, taking into consideration the decree passed in O.A.No.482 of 2016 for a sum of Rs.6.60 crores together with interest, directed the petitioners to make a pre-deposit of Rs.1.65 crores, which is 25% of the decreed amount. While arriving at the said amount, the Appellate Tribunal observed that the pre-deposit cannot be reduced to less than 25% under Section 21 of the Recovery of Debts and Bankruptcy Act, 1993.

4.The finding given by the Appellate Tribunal is perfectly correct. The mandatory pre-deposit for filing an appeal cannot be reduced to less than 25%. In the case on hand, the Appellate Tribunal has only directed the petitioners, who are the guarantors, to pay 25% of the decreed amount. We do not find any error or irregularity in the order passed by the Appellate Tribunal. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

va

To

1.The Senior Manager,
Indian Overseas Bank,
No.1, New Street, Super Bazaar Complex,
Alandur, Chennai - 600 016

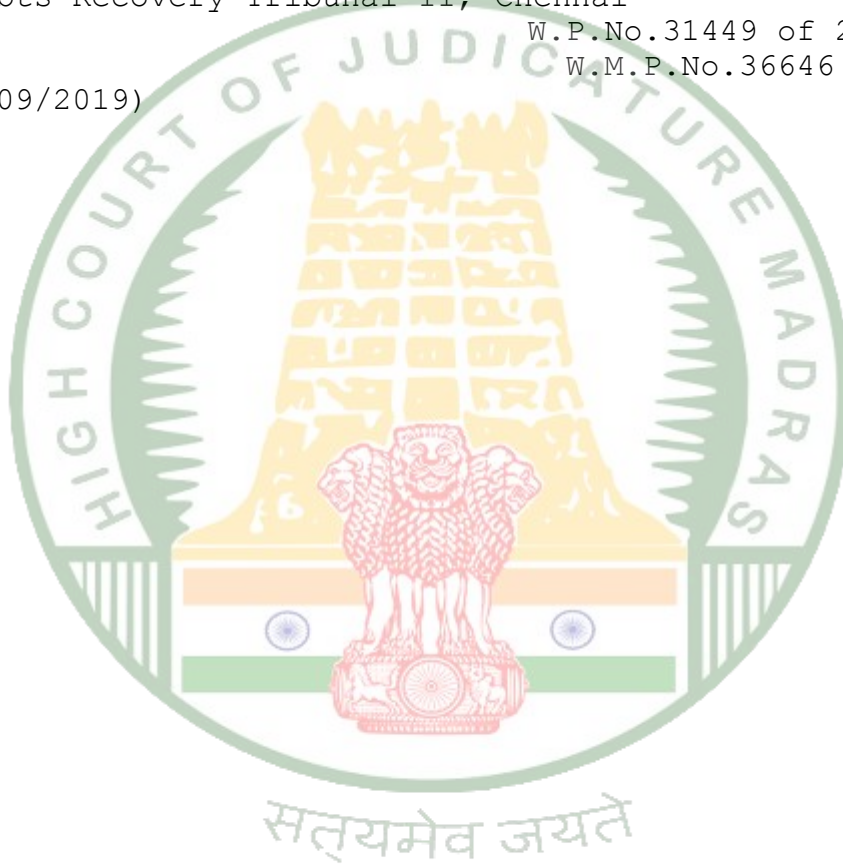
2.The Deputy Recovery Appellate Tribunal, Chennai

3.The Debts Recovery Tribunal II, Chennai

W.P.No.31449 of 2018 and

W.M.P.No.36646 of 2018

A.SK(20/09/2019)



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