

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.25958 of 2018 and
W.M.P.Nos.30164 & 30167 of 2018

M/s. Kamalakannan Earth Movers
Rep. by its proprietor R.Ravindran
No. 23 Vilankuruchi Road
Saravanampatti
Coimbatore .. Petitioner

v.

- 1 The Debts Recovery Appellate Tribunal
By its Registrar
55 Ethiraj Salai
Chennai - 600 002
- 2 The Debts Recovery Tribunal
By its Registrar
Jawans Bhavan
27, Travellers Bungalow Road
Coimbatore
- 3 The Authorized Officer
Syndicate Bank
Avinashi Road Branch
27 Ex- Servicemen Centre
Travelers' Bungalow Road
Coimbatore - 641 018 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, calling for the records relating to the order dated 31.08.2018 made in A.I.R. (S.A) No.393 of 2018 on the file of the Debts Recovery Appellate Tribunal, Chennai, the 1st respondent herein and to quash the same.

For Petitioners : Mr.A.V.Arun

For Respondents : Mr.P.Srinivasalu - for R3

Tribunal - R1 & R2

O R D E R

(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorari to call for the records relating to the order dated 31.08.2018 made in A.I.R. (S.A) No.393 of 2018 on the file of the Debt Recovery Appellate Tribunal, Chennai and to quash the same.

2. It is the case of the petitioner that they have filed an appeal in S.A.No.221 of 2018 on the file of the Debts Recovery Tribunal, Coimbatore, challenging the sale notice dated 26.04.2018 and also filed an application in I.A.No.1350 of 2018 in the said appeal to stay all further proceedings in pursuance of the sale notice dated 26.04.2018.

3. The Debts Recovery Tribunal, by order dated 08.06.2018, granted an order of interim injunction restraining the respondent-bank from confirming the sale till 09.08.2018, subject to payment of Rs.19 lakhs, on or before 09.07.2018 as 1st installment and another sum of Rs.19 lakhs on or before 08.08.2018 as 2nd installment.

4. Challenging this order, the petitioner filed an appeal in A.I.R. (S.A) No.393 of 2018 before the Debt Recovery Appellate Tribunal, Chennai. The petitioner also filed an application in I.A.No.626 of 2018 for waiver of pre-deposit.

5. The Debt Recovery Appellate Tribunal, Chennai, by order dated 31.08.2018, directed the petitioner to make a pre-deposit of Rs.48 lakhs within four weeks. While arriving at the said figure, the Appellate Tribunal, took into consideration the notice dated 04.07.2017 issued by the respondent-bank claiming a sum of Rs.96.77 lakhs.

6. When the Debts Recovery Tribunal has passed the conditional order directing the petitioner to pay a sum of Rs.38 lakhs in two installments, the order passed by the Debt Recovery Appellate Tribunal, Chennai, directing the petitioner to make a pre-deposit of Rs.48 lakhs is onerous.

7. Mr.A.V.Arun, learned counsel appearing for the petitioner submitted that the petitioner would deposit a sum of Rs.38 lakhs in one stroke, within a period of four weeks.

8. The learned counsel appearing for the 1st respondent-bank is also agreeable for the proposal made by the learned counsel appearing for the petitioner.

9. In view of the submissions made by the learned counsel on either side, we direct the petitioner to make a pre-deposit of Rs.38 lakhs, within a period of four weeks, from the date of receipt of a copy of this order before the Registrar of Debt Recovery Appellate Tribunal, Chennai and on such deposit being made by the petitioner, the Debt Recovery Appellate Tribunal shall number the appeal and decide the same in accordance with law.

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

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

Rj

To

1 The Debts Recovery Appellate Tribunal
By its Registrar
55 Ethiraj Salai
Chennai - 600 002

2 The Debts Recovery Tribunal
By its Registrar
Jawans Bhavan
27, Travellers Bungalow Road
Coimbatore

+1cc to Mr.AV.Arun, Advocate SR.No.3134

W.P. No.25958 of 2018 and
W.M.P.Nos.30164 & 30167 of 2018

SSI (CO)
GMY (06/02/2019)