

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.02.2019

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

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.27308 of 2018 and
W.M.P.Nos.31780 & 31783 of 2018

The Chairman & Managing Trustee
St.John Sangam Trust,
Rover Campus, Anna Salai,
Perambalur - 621 212,
Perambalur District.

.. Petitioner

Vs.

- 1.The Authorized Officer,
Indian Overseas Bank,
70/14, Attur Main Road,
Perambalur - 621 212,
Perambalur District.
- 2.The Presiding Officer,
Debt Recovery Appellate Tribunal,
Chennai.
- 3.The Presiding Officer,
Debts Recovery Tribunal - III,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified mandamus to call for the records pertaining to the order passed by the 2nd respondent Debt Recovery Appellate Tribunal dated 17.04.2017 passed in I.A.No.445 of 2017 in AIR No.603 of 2017 and to quash the same and consequently direct the Debt Recovery Appellate Tribunal to restore waiver application I.A.No.248 of 2017 since the petitioner Trust had deposited the conditional deposit of Rs.8.6 crores after the dismissal of the waiver application and grant an opportunity for the petitioner Trust to adjudicate the main appeal before the Debt Recovery Appellate Tribunal.

For Petitioner : Mr.B.Balavijayan

For Respondents : Mrs.G.Shanthi Meenakshi (R1)
R2 & R3 - Tribunal

O R D E R
(Order of the Court made by the Hon'ble Chief Justice
and M.Duraiswamy, J.)

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent dated 17.04.2017 in I.A.No.445 of 2017 in AIR No.603 of 2016 and to quash the same and consequently direct the Debt Recovery Appellate Tribunal to restore waiver application I.A.No.248 of 2017 since the petitioner Trust had deposited a sum of Rs.8.6 crores after the dismissal of the waiver application and grant an opportunity for the petitioner Trust to prosecute the main appeal before the Debt Recovery Appellate Tribunal.

2.Challenging the order passed by the Debts Recovery Tribunal - III, Chennai in S.A.No.529 of 2016, the petitioner filed an appeal in AIR.No.603 of 2016 before the Debt Recovery Appellate Tribunal. In the said appeal, the petitioner filed an application in I.A.No.248 of 2017 for waiver of pre-deposit. The Debt Recovery Appellate Tribunal, by order dated 16.02.2017, directed the petitioner to make a pre-deposit of Rs.8.6 crores in two installments. The first of such installment of Rs.4.6 crores have to be made within four weeks and the 2nd installment of Rs.4 crores in four weeks thereafter. However, the petitioner has not complied with the order dated 16.02.2017, instead, filed an application in I.A.No.445 of 2017 seeking for extension of time. The Debt Recovery Appellate Tribunal, while dismissing the application recorded the submission made by the learned counsel for the appellant that the appellant has not responded as to the compliance of the order passed by the Appellate Tribunal. As of June 2015, the petitioner is liable to pay a sum of Rs.33.23 crores to the respondent - Bank. Since the petitioner has not complied with the order passed by the Appellate Tribunal, the Tribunal has rightly dismissed the application. That apart, the petitioner has not given any satisfactory reason for extending the time granted by the Appellate Tribunal.

3.It is needless to say that making pre-deposit is a mandatory condition for entertaining an appeal before the Debt Recovery Appellate Tribunal. When the petitioner has not complied with the same, the Appellate Tribunal has rightly dismissed the application. We do not find any reason to interfere with the order passed by the Appellate Tribunal. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Authorized Officer,
Indian Overseas Bank,
70/14, Attur Main Road,
Perambalur - 621 212,
Perambalur District.
- 2.The Presiding Officer,
Debt Recovery Appellate Tribunal,
Chennai.
- 3.The Presiding Officer,
Debts Recovery Tribunal - III,
Chennai.

+1cc to M/s.C.S. Associates, Advocate, S.R.No.13853
+1cc to M/s. K.Sumathi, Advocate, S.R.No.12541

W.P.No.27308 of 2018 and
W.M.P.Nos.31780 & 31783 of 2018

RSV(CO)

rrs 01/03/2019



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