

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
WRIT PETITION No.1491 of 2019

ORDER: *(per VRS,J)*

Challenging the dismissal of an application for extension of time to comply with a conditional order passed by the Debts Recovery Tribunal, the borrower has come up with the above writ petition.

2. Heard Mr.S.Sridhar, learned counsel for the petitioner, and Mr.M.V.K.Viswanadham, learned counsel for the Bank.

3. By the order dated 31.10.2018, passed in S.A.No.216 of 2018, the Tribunal granted stay of all further proceedings including taking of physical possession of the secured assets, subject to the petitioner depositing a sum of Rs.25,00,000/- in two instalments. As per the conditional order, the petitioner paid a sum of Rs.2,50,000/- on 08.11.2018, a sum of Rs.3,00,000/- on 13.11.2018 and a sum of Rs.9,70,000/- on 17.11.2018. He also made payment of another sum of Rs.4,50,000/- on 29.11.2018. Thus, in all, he paid a sum of Rs.19,70,000/- within 29 days of the order of the Tribunal, as against the amount of Rs.25,00,000/- that should have been paid by him.

4. Therefore, the petitioner filed an application in I.A.No.3568/2018 seeking extension of time. The Tribunal granted two more weeks' time to make payment of the balance of Rs.5,30,000/-, but the petitioner failed to comply with the said order.

5. However, he moved another application in I.A.No.128/2019 seeking further extension of time. It was dismissed by the Tribunal by order dated 24.01.2019. Therefore, the petitioner is before this Court.

6. Since the petitioner had complied with the conditional order to the extent of 80%, we passed interim order on 29.01.2019 to the following effect:

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There will be interim stay of further proceedings pursuant to the impugned order of the Tribunal subject to the condition that the petitioner deposits the balance of the amount on or before 26.02.2019.”

7. Pursuant to the said order, the petitioner has made good the balance of payment. Thus, the order passed by the Tribunal on 31.10.2018 stands complied with, within a period of sixteen weeks instead of being complied with within a period of three weeks.

8. Drawing our attention to the hide and seek game played by the landlord and the tenant and the order passed by us in one of the writ petitions filed by the tenant, granting time for him to vacate the property on or before 30.06.2018, it was contended by the learned counsel for the Bank that the petitioner does not deserve any indulgence.

9. We could have accepted the above submission, if the Bank was aggrieved by the conditional order granted by the Tribunal. The Bank did not come up with a Writ Petition challenging the conditional order passed by the Tribunal.

Therefore, today their objection just only to the extension of time cannot be accepted.

10. In view of the fact that the petitioner has now complied with the conditional order passed by the Tribunal within the extended period granted by us, the Writ Petition stands allowed. Stay granted by the Tribunal shall continue till the disposal of the appeal in S.A.No.216/2018. The Tribunal shall endeavor to dispose of S.A.No.216/2018 within a period of four months from the date of receipt of a copy of this order.

11. Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

V. RAMASUBRAMANIAN, J

ABHINAND KUMAR SHAVILI, J

12th March, 2019
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