

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P.No.8248 of 2019
WMP.No.8803/2020

P.Anbukarasan

...Petitioner

Versus

1.UCO Bank

Puducherry Main Branch
rep.by its Assistant General Manager,
No.37, Rue Mahe De Labourdonnais,
Puducherry 605 001.

2.M/s.N.Singaram

rep.by its Proprietor,
M.Bharathi
New No.129, Old No.123, Main Road,
Lawspet, Puducherry 605 008.

3.The Registrar,

Debt Recovery Appellate Tribunal
4th Floor, Indian bank Circle Office,
55 Ethiraj Salai,
Chennai 600 008.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorari calling for the records culminating in order dated 21.12.2018 in AIR No.87/2018 and AIR No.227/2018 filed against the common order dated 21.12.2018 passed by the DRT III in I.A.Nos.1010 of 2017 and 1011 of 2017 in O.A.No.13/2015 and quash the same

For Petitioners : Mr.S.Namasivayam
For Respondents : Mr.R.Chandramohan

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner is a Guarantor, who has given collateral security in favour of the Borrower/2nd respondent, in respect of financial assistance extended by the first respondent.

2. The UCO Bank has originally filed O.A.No.154/2014 on the file of the Debts Recovery Tribunal - I Chennai, which was transferred to DRT-III at Chennai and renumbered as O.A.No.13 of 2015 under the provisions of Recovery of Debts Due to Banks And Financial Institutions Act, 1993 for recovery of Rs.1,51,20,766.13/- together with interest at the rate of 14.20% per annum from the date of the original application till the date of realisation. The petitioner, who is arrayed as 2nd defendant in O.A.Nos.1010 and 1011/2017 praying for appropriate direction to refer the impugned Deed of Guarantee dated 21.03.2012 and the documents namely vakalat and written statement in the Original Application to the handwriting expert of the Forensic Sciences Department and to permit the petitioner to cross examine the witness of the applicant Bank. The DRT-III, Chennai vide order dated 22.12.2017 had dismissed the applications and making challenge to the said orders, the petitioner filed an appeal in AIR No. 227 & 87/2018 on the file of the Debts Recovery Appellate Tribunal, Chennai with a delay of 18 days.

3. The learned counsel appearing for the petitioner would submit that DRAT in stead of disposing of the application filed for condonation of delay, has directed the DRT to dispose of the main Original Application itself. Unless and until the merits of the order passed in I.A.No.1010 & 1011/2017 in O.A.No.13/2015 are adjudicated, there cannot be any such direction.

4. Mr.R.Chandramohan, learned standing counsel accepts notice on behalf of the 1st respondent and would submit that pleadings are completed in the Original Application and on account of pendency of the appeal, DRT-III at Chennai is not in a position to proceed with the adjudication of the matter.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. In the considered opinion of this Court, unless the application of condonation of delay of 18 days in filing the appeal, is considered and disposed of, there cannot be any positive direction by directing the DRT-III to dispose of the main Original Application itself.

7. In the result, the Writ Petition is allowed and the proceedings dated 21.12.2018 in AIR No.87 and 227 of 2018 is set aside and the DRAT, Chennai is directed to dispose of the application for condonation of delay of 18 days in filing the appeal by the petitioner/appellant, as expeditiously as possible, not later than three weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/
Sub Asst. Registrar

To
1.The Registrar
Debt Recovery Appellate Tribunal
4th Floor, Indian Bank Circle Office
55, Ethiraj Salai
Chennai-8

+2 ccs to Mr.S.Namsivayam Advocate sr7417
+1 cc to M/s.R.Selvakumar advocate sr69751

W.P.No.8248 of 2019

rr(co)
aa04/03/2020

सत्यमेव जयते

WEB COPY