

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.33849 of 2019 &
WMP.No.34370 of 2019

1.N.Venukumar
2.C.Natarajan

.. Petitioners

Vs

1. The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.
 2. State Bank of India,
Rep by its Assistant General Manager,
RACPC Ist Floor, Alwarpet, Chennai-18.
 3. M/S.Falcon Automative India Pvt ltd.,
No 460, Thirumala nagar,
Pondur, Sriperumbudur,
Kanceepuram District-602 105
Also at Old No L 18, New No L45,
Ambattur Industrial Estate,
Ambattur, Chennai-600 058.
Reptd., by the Official Liquidator,
High Court of Madras, Corporate Bhawan, 2nd Floor,
No.29, Rajaji Salai, Chennai-600 001.
- .. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records of the 1st Respondent being the impugned order dated 12.09.2019 made in AIR.No.187 of 2019 on the file of the Debts Recovery Appellate Tribunal, Chennai and quash the same as arbitrary and illegal and consequently, direct the Debts Recovery Appellate Tribunal, Chennai to consider and decide the application in I.A.No.568 of 2019 in AIR No.187 of 2019 on merits after issuing notice to the 2nd Respondent.

For Petitioner .. Mr.R.Munuswamy

For Respondents .. Mr.S.Sethuraman for R2

ORDER

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

This writ petition has been filed by the petitioner, who is the borrower, challenging a portion of the order passed by the Debts Recovery Appellate Tribunal, Chennai, dated 12.09.2019, by which, the appeal petition was dismissed for want of compliance of pre deposit of Rs.2 crores.

2.Learned counsel appearing for the petitioner submitted that the main property of the petitioner has already been sold for a lower price. This aspect has not been taken into consideration by the Debts Recovery Appellate Tribunal while asking the petitioner to make the pre-deposit. The petitioner's counsel did not agree for payment of Rs.2 Crores but only sought for modification. Even now, the petitioner is willing to pay a sum of Rs.1 crore. Thus, the appeal will have to be decided on merit.

3.Mr.Sethuraman, learned counsel appearing for the second respondent, submitted that the order dated 14.08.2019 has not been complied with nor put to challenge. He further submitted that the learned counsel appearing for the petitioner himself made a statement seeking extension of time. Thus, the writ petition will have to be dismissed.

4.What the petitioner wants is an adjudication on merits. The fact that the petitioner's property was sold, brought up for auction and about Rs.1.9 crores has been recovered in favour of the second respondent/Bank is not in dispute. Now, the petitioner wants to show his bonafide by paying a sum of Rs. 1 crore. Though, the learned counsel appearing for the second respondent is right on his technical plea, considering the aforesaid facts, we are inclined to extend one more opportunity to the petitioner on condition that he deposits a sum of Rs.1.5 crores within a period of four weeks from the date of receipt of a copy of this order instead of pre-deposit as ordered by the Debts Recovery Appellate Tribunal for a sum of Rs.2 crores. On such deposit, the appeal will have to be numbered and thereafter decided on merits.

5. The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

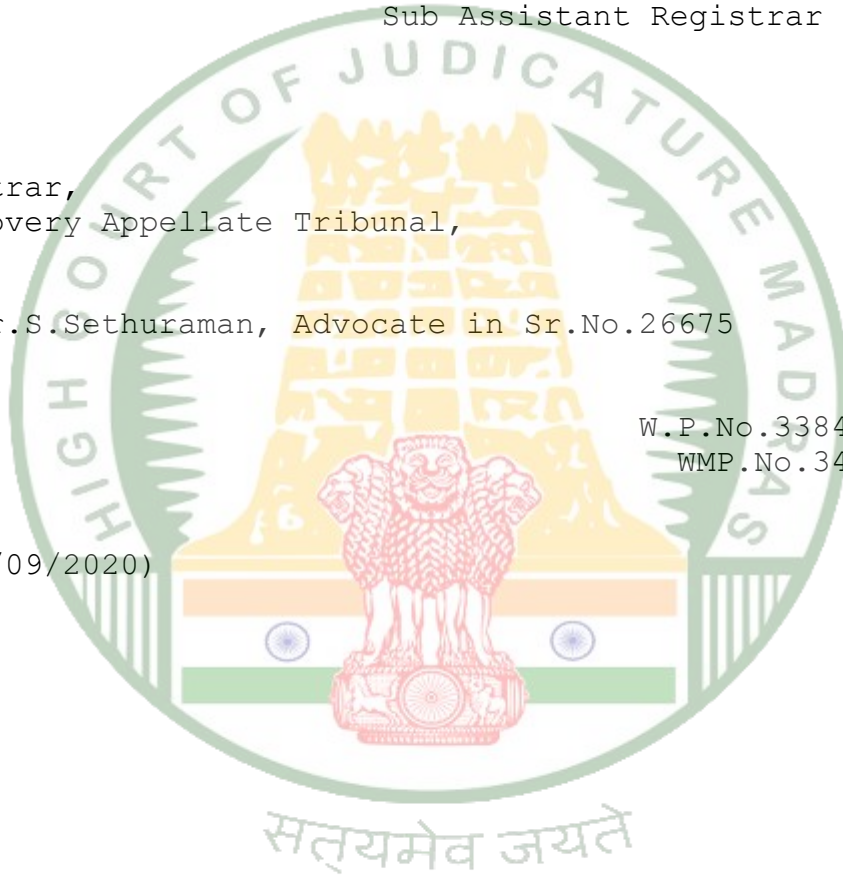
To

The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.

+1cc to Mr.S.Sethuraman, Advocate in Sr.No.26675

W.P.No.33849 of 2019 &
WMP.No.34370 of 2019

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