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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

C.R.P.NO.1619 OF 2019

AND C.M.P.NOS.10639, 10641 AND 15946 OF 2019

Jayanthi

.. Petitioner

Vs.

1.State Bank of India,
Stressed Assets Management Branch,
Rep. by Asst. General Manager,
Red Cross Buildings, Old No.50,
New No.32, Monteith Road,
Egmore, Chennai 600 008.

2.M/s.Kancheepuram Kalaanjalee Silk
Sarees, Rep. by its Partner, D.Venkattiyesh.

3.D.Venkattiyesh

4.R.Padma

5.Therasa Ammal

.. Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the order dated 03.04.2019 made in A.I.R.No.670 of 2018 on the file of Debts Recovery Appellate Tribunal, Chennai.

For the Petitioner : Mr.M.Arun Murugan

For the Respondents : Mr.M.L.Ganesh for R-1

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

It is unfortunate that this matter has remained pending in this court for such a long time and the respondent bank has been prevented from pursuing its remedies by virtue of an unreasoned order of this court of April 30, 2019.

2. The challenge here is to an order of pre-deposit passed by the Debt Recovery Appellate Tribunal, Chennai, in connection with the petitioner's appeal filed under Section 21 of the



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Recovery of Debts and Bankruptcy Act, 1993. The relevant provision mandates a pre-deposit. However, the 50 per cent of pre-deposit that the provision speaks of may be reduced to not less than 25 per cent for reasons to be recorded in writing by the appellate tribunal.

3. In other words, upon adequate cause being shown by an appellant as to why it should not be required to make the full quantum of statutory pre-deposit, the DRAT has the authority to reduce the quantum of deposit as long as the reduced quantum is not below 25 per cent of the amount of debt adjudged to be due from the appellant to the concerned bank or financial institution.

4. The petitioner herein seeks to suggest that documents pertaining to an immovable property owned by the petitioner were forged and fabricated by some other and, in connivance with bank officials, accepted by the bank for grant of credit facilities to absolute strangers. On the basis of such allegations, the petitioner purported to defend the claim lodged by the concerned bank under Section 19 of the Act of 1993. The relevant DRT has held against the petitioner and found that the petitioner is liable to pay a sum in excess of Rs.83.65 lakh together with interest.

5. In the resultant appeal, the DRAT has only to look at the quantum of debt adjudged to be due from the petitioner herein and, by the order impugned dated April 3, 2019, the DRAT called upon the petitioner to make a pre-deposit of Rs.60 lakh within a period of four weeks.

6. The order also recorded that in the event of the deposit not being made within the time permitted, the appeal would stand dismissed.

7. Notwithstanding the order of stay passed in this court, the same could not have had the effect of the petitioner's appeal being amenable to be proceeded with. Whatever may have been the effect of the order, it does not appear that the DRAT committed any error. The DRAT took relevant facts into account. The relevant fact in this case was the quantum of indebtedness which had fastened to this petitioner by virtue of the order of the DRT. It is on such basis that the DRAT assessed the amount of pre-deposit that ought to be made. There is no infirmity or error on the part of the DRAT.

8. The petitioner's assertion that she was a third party and unconnected with the transaction could not have been countenanced at the stage of receiving the appeal and deciding on the quantum of deposit. The order passed by the DRT and the



extent of the would-be appellant's indebtedness were the only relevant considerations to assess the quantum of pre-deposit that ought to be made under Section 21 of the Act.

Accordingly, C.R.P.No.1619 of 2019 is dismissed with costs assessed at Rs.25,000/- to be paid by the petitioner to the respondent bank in addition to whatever the other dues of the bank may be. Consequently, C.M.P.Nos.10639, 10641 and 15946 of 2019 are closed.

s/d
Deputy Registrar

True Copy

Sub-Assistant Registrar

sra

To:

1.The Registrar,
Debts Recovery Appellate Tribunal,
Chennai.

2.The Asst. General Manager,
State Bank of India,
Stressed Assets Management Branch,
Red Cross Buildings, Old No.50,
New No.32, Monteith Road,
Egmore, Chennai 600 008.

+2ccs to Mr.M.Arun Murugan, Advocate, SR.No.44394

C.R.P.No.1619 of 2019

RLD(CO)
PM(09/09/2021)