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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.No.3428 of 2022

E.V.Shiril
Proprietor of EVS Foods and Beverages
45A, Bharathi Colony, 2^{nd} Street
Peelamedu, Coimbatore
Tamilnadu – 641 004. .. Petitioner

Vs

The Authorised Officer
The South Indian Bank Ltd
Regional Office, P.B.No.3868
Trichy Road, Sungam
Coimbatore – 641 018. .. Respondent

Prayer: Petition filed under Article 227 of the Constitution of India against the order dated 29.9.2022 in I.A.No.296 of 2022 in AIR (SA) No.231 of 2022 on the file of the Debt Recovery Appellate Tribunal, Chennai, in I.A.No.2326 of 2022 in S.A.No.595 of 2022 on the file of the Debts Recovery Tribunal, Coimbatore, order dated 21.6.2022.

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For the Petitioner : Mr.P.M.Bakthavatsalam
for Mr.S.Sukumar

For the Respondent : Mr.M.L.Ganesh

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

The petitioner, who is the borrower, has filed this civil revision petition challenging the order dated 29.9.2022 passed by the Debt Recovery Appellate Tribunal, Chennai, in I.A.No.296 of 2022 in AIR (SA) 231 of 2022 and the order dated 21.6.2022 passed by the Debts Recovery Tribunal, Coimbatore, in S.A.No.595 of 2022.

2. The petitioner availed loan of various amounts from the respondent-bank during 2017 and 2018. As the petitioner defaulted in repayment, the accounts were classified as "Non-Performing Assets" on 24.3.2021. The respondent-bank issued a demand notice on 19.5.2021 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and a possession notice on 28.9.2021 claiming a sum of Rs.9,34,72,211.80.

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3. It is stated that thereafter the respondent-bank issued a sale notice on 21.5.2022 fixing the date of auction as 22.6.2022. It is an admitted fact that the respondent-bank had sold one of the properties of the petitioner in the auction held on 22.6.2022 and recovered a sum of Rs.4,72,60,000/-.

4. When the aforesaid sale notice was challenged by the petitioner by filing S.A.No.595 of 2022, the Debts Recovery Tribunal, Coimbatore, by order dated 21.6.2022, directed the petitioner to deposit a sum of Rs.4.50 crores to the respondent bank in two installments, namely a sum of Rs.2.25 crores was to be paid on or before 19.7.2022 and another sum of Rs.2.25 crores was to be paid on or before 16.8.2022.

5. Assailing the aforesaid order passed by the Debts Recovery Tribunal, the petitioner preferred an appeal before the Debt Recovery Appellate Tribunal, Chennai, along with an application seeking waiver of statutory pre-deposit amount. The Appellate Tribunal passed a conditional order on 29.9.2022. The relevant

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portion of the said order is extracted hereunder:

> *"Therefore, appellant shall deposit 50% of notice amount of Rs.8,96,06,681.50p which comes to Rs.4,48,03,341/- within two weeks from today, i.e. on or before 13.10.2022, failing which, appeal stands rejected.*
>
> *On making such deposit, Registrar shall invest the same in a nationalized bank for a reasonable period and renew it periodically, till further orders are passed.*
>
> *Post the matter on 14.10.2022 for compliance of deposit."*

6. Learned counsel appearing for the petitioner submitted that the petitioner would pay 25% of the balance amount due after deducting the amount realized by the bank after selling one of the properties of the petitioner within two weeks and pay the remaining amount within thirty days thereafter.

7. Learned counsel for the respondent-bank submitted that

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even after realizing the sum of Rs.4,72,60,000/- by selling one of the properties of the petitioner on 22.6.2022, the petitioner is still liable to pay a sum of Rs.5,48,56,372.30 as on 20.5.2022 [*Rs.10,21,16,372.30 – Rs.4,72,60,000.00*].

8. Considering the fair submission of learned counsel for the petitioner that the petitioner shall pay 25% of the amount within two weeks and the balance amount within thirty days thereafter and the admitted fact that during the pendency of the proceedings before the Tribunal, one of the properties belonging to the petitioner was sold and a sum of Rs.4,72,60,000/- was realized by the respondent-bank, we dispose of the writ petition with the following directions:

(i) The petitioner shall pay Rs.1,37,14,094/- [25% of Rs.5,48,56,372.30] within two weeks from the date of receipt of a copy of this order;

(ii) On payment of the amount aforesaid within the stipulated time, the Appellate Tribunal shall take up the appeal.

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(iii)As undertaken before us, the petitioner shall seek thirty days time from the Appellate Tribunal and pay the remaining amount.

(iv)In default of compliance of direction (i) above, the Appellate Tribunal shall reject the appeal preferred by the petitioner.

There will be no order as to costs. Consequently, C.M.P.No.18199 of 2022 is closed.

(T.R., ACJ.) (D.K.K., J.)
09.11.2022

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To:

The Authorised Officer
The South Indian Bank Ltd
Regional Office, P.B.No.3868
Trichy Road, Sungam
Coimbatore – 641 018.

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T.RAJA, ACJ.
AND
D.KRISHNAKUMAR,J.

(sasi)

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