



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5082 OF 2023

Tarun s/o Madanmohan Das, West High Court Road, Dharampeth, Nagpur and anr.

-VS-

The Authorised Officer, Indian Bank (erstwhile Allahabad Bank), Gandhibagh Branch, C. A. Road, Nagpur and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Yash Khullarwar, Advocate for petitioners.
Shri Manojya Singh, Advocate for respondent No.1.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE : August 28, 2023

P.C.

1. Heard.

2. The challenge raised in the present writ petition is to the order dated 30/06/2023 passed by the Debts Recovery Appellate Tribunal in the appeal preferred by the petitioners. The petitioners are aggrieved by the direction to deposit an amount of Rs.90,00,000/- as pre-deposit in three equal instalments. The petitioners have deposited the amount of 60,00,000/- in compliance thereof. Difficulty is expressed for depositing the balance amount of Rs.30,00,000/-.

2. Our attention is invited to paragraph 7 of the order dated 30/06/2023 where the Tribunal has recorded a prima facie satisfaction that an arguable case has been made out. However, since no evidence with regard to the financial difficulties was placed by the petitioners before the Tribunal, the prayer for reducing the amount of pre-deposit was not entertained.

3. The learned counsel for the petitioners seeks to place before us Income Tax Returns to indicate financial difficulties so as to reduce the amount of pre-deposit.

4. We find that since the Tribunal has not gone into the question of reducing the amount of pre-deposit in absence of any evidence being placed by the petitioners, an opportunity deserves to be granted to the petitioners to place the same on record. It is pointed that the balance amount of Rs.30,00,000/- is to be deposited by 31/08/2023 failing which the appeal is liable to be dismissed. In these circumstances, the following order would meet the ends of justice :

The petitioners are at liberty to make an application before the Debts Recovery Appellate Tribunal to seek modification of the order dated 30/06/2023 in the matter of determining the amount of pre-deposit. Necessary steps in that regard shall be taken by the petitioners within a period of two weeks. Since the time to deposit that amount expires on 31/08/2023, we are inclined to grant further time to the petitioners and continue the interim protection as regards dismissal of the appeal for non-compliance till 11/09/2023.

5. Subject to aforesaid, the writ petition is not entertained. Keeping all points raised open for being raised before the Debts Recovery Appellate Tribunal, the writ petition is disposed of. No costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)