



WP No.29334 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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and WMP Nos.28966 and 28967 of 2023

1.M/s Lucky Footwear Components,
Rep by its Partner, V.Asalam Basha,
SF No.115 & 116, Plot No.285, 286, 287 and 288,
Thuthipet Village, Ambur Taluk,
Tirupattur-635802.

2. V.Tabraza Basha

3.V.Asalam Basha

.. Petitioners

-vs-

1. The Authorised Officer,
Indian Bank,
No.21/11, Oomer Road,
Ambur Taluk, Tirupattur District.

2. The Manager,
Indian Bank,
No.21/11, Oomer Road,
Ambur Taluk, Tirupattur District.

3. Amarnath Reddy

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for



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issuance of a Writ of Certiorari to call for the records in relation to order dated 08.09.2023 in AIR (SA) No.719/2023 passed by the Hon'ble Debt Recovery Appellate Tribunal, Chennai and quash the same.

For the Petitioners : Mr.P.Tamilavel
For the Respondents : Mr.T.Sundar Rajan
For RR 1 and 2
: Mr. P.C.Harikumar
For M/s P.C.Harikumar &
Associates, for R-3

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.P.Tamilavel, learned counsel for the petitioners, Mr.T.Sundar Rajan, learned counsel for respondent Nos.1 and 2 and Mr.P.C.Harikumar, learned counsel for respondent No.3.

2. The sale was conducted on 10.08.2022 for an amount of Rs.68,00,000/- (Rupees sixty eight lakhs only). Subsequently, the sale certificate is issued. The petitioners have challenged the sale by



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filing S.A. before the Debts Recovery Tribunal. The same is rejected. The petitioners filed an appeal before the Debt Recovery Appellate Tribunal. The Debt Recovery Appellate Tribunal directed the petitioners to deposit an amount of Rs.15,83,706/- (Rupees fifteen lakhs eighty three thousand seven hundred six only) under order dated 09.08.2023. The petitioners approached this Court. It appears that the petitioners failed to deposit an amount of Rs.10,00,000/- (Rupees ten lakhs only) as was suggested by this Court. Now, it is submitted that the petitioners have deposited the amount of Rs.10,00,000/- only on 11.10.2023.

4. In the interregnum, the petitioners have deposited Rs.68,00,000/- (Rupees sixty eight lakhs only) on 12.09.2022 and a sum of Rs.84,502/- towards the expenses incurred for the sale on 13.09.2022. The petitioners as such after the sale is conducted deposited a total amount of Rs.78,84,502/-. The sale proceeds is Rs.68,00,000/-.

5. According to the Debt Recovery Appellate Tribunal, the claim of the bank is Rs.31,67,413/- and the petitioners are required to



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deposit Rs.15,83,000/- (Rupees fifteen lakhs eighty three thousand only). The discretion vests with the Debt Recovery Appellate Tribunal to direct deposit upto 25% of the amount as pre-deposit. Considering the amounts deposited and the sum of Rs.10,00,000/- also would be more than 25% of the amount due and payable, we pass the following order.

- (1)The amount of Rs.10,00,000/- (Rupees ten lakhs only) deposited on 11.10.2023 shall be construed as a valid pre-deposit and to that extent, the order of the Debt Recovery Appellate Tribunal directing the petitioners to deposit Rs.15,83,000/- as pre-deposit is modified.
- (2)The order passed by the Debt Recovery Appellate Tribunal dismissing the appeal for want of pre-deposit is quashed and set aside. The appeal filed by the petitioners before the Debt Recovery Appellate Tribunal stands restored to its original position.
- (3)The parties shall appear before the Debt Recovery Appellate Tribunal on 01.11.2023. In view of the fact that date of appearance has been given by this Court, it may not be



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necessary now for the Debt Recovery Appellate Tribunal to issue fresh notice to the parties.

(4)The Debt Recovery Appellate Tribunal, thereafter, shall decide the appeal filed by the petitioners on its own merits and in accordance with law.

(5)The parties are at liberty to file such interim applications as may be permissible before the Debt Recovery Appellate Tribunal. Considering the fact that the matter is remitted to the Debt Recovery Appellate Tribunal, the Debt Recovery Appellate Tribunal should endeavour to decide the appeal expeditiously.

With the aforesaid directions and observations, the writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.No.28966 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No

sra



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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sra)

To

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