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CRP No.2473 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2024

CORAM :

THE HONOURABLE MR. D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

CRP No.2473 of 2023 and

CMP Nos.15394, 21938, 21941, 26591 of 2023 and

CMP No.1773, 18460 of 2024

T.Pragasi

...Petitioner

Vs.

1. The Authorised Officer,
State Bank of India,
Retail Assets Central Processing Centre (RACPC),
No.50, AR Plaza, Mount Poonamallee High Road,
Ayyappanthangal, Chennai 600 056.

2. P.Michael Prabhu

3. M.Maravlvendhan

(R-3 Impleaded, vide order dated 14.08.2024
made in CMP Nos.1771 and 17051 of 2024
in CRP No.2473 of 2023)

... Respondents



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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 29.06.2022 in AIR (SA) 86 of 2021 on the file of the Debts Recovery Appellate Tribunal, Chennai, confirming the order dated 29.01.2021 made in S.A.No.173 of 2019 on the file of the Debts Recovery Tribunal-III, Chennai by allowing the civil revision petition.

For Petitioner : Mr.S.Subbiah, Senior Counsel
for Mr.M.A.Aruneshe

For Respondents : Mr.B.Murugavel for first respondent
Mr.A.Abdul Hammed for third respondent

ORDER

(Order of the Court was delivered by the Hon'ble Acting Chief Justice)
Assailing the order passed by the Debts Recovery Appellate Tribunal, Chennai in AIR (SA) No. 86 of 2021, dated 29.06.2022, confirming the order passed by the Debts Recovery Tribunal-III, Chennai in S.A.No.173 of 2019, dated 29.01.2021, this civil revision petition has been filed.

2. The petitioner's son availed loan from the respondent bank for his educational purpose and thereafter, the loan account was classified as NPA and following the same, notice under Section SARFAESI Act was issued to the petitioner's son. Subsequently, the property, which was mortgaged with



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the bank for obtaining the loan, was brought to sale, vide sale notice dated 07.08.2019 and challenging the same, the petitioner and her son filed S.A.No.173/2019 before the Debts Recovery Tribunal and the same was dismissed, vide order dated 29.01.2021. Challenging the above order, the petitioner filed an appeal in AIR (SA) No.86/2021 before the Debts Recovery Appellate Tribunal.

2.1. Along with the above appeal, an application in I.A.No.359/2021 was also filed seeking waiver of statutory deposit of 50% of the amount, as stipulated in the notice issued under Section 13(2) of the SARFAESI Act, for entertaining the appeal. The above said application was allowed on 07.06.2022, on condition that the petitioner shall deposit 50% of Rs.26,81,548/-, viz., Rs.13,40,774/- within three weeks, i.e. on or before 28.06.2022, failing which, it was stated that the appeal would be rejected. However, the petitioner had not deposited the said amount before the date of 28.06.2022, as ordered by the DRAT in the waiver application and hence she filed another application in I.A.No.279/2022 seeking to extend the time by four weeks. The said application was dismissed on 29.06.2022 and



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consequently, the appeal was also rejected. Challenging the above said order the present civil revision petition has been filed.

3. Pending civil revision petition, the auction purchaser of the property has been impleaded as third respondent in the civil revision petition.

4. The learned Senior Counsel appearing for the petitioner submitted that this appeal has been filed as against the order passed in the application seeking extension of time to deposit the amount, as ordered in the waiver application. He further submitted that the petitioner's property worth about Rs.2 Crores was sold in auction to the third respondent only for Rs.1Crore. In such circumstances, though the petitioner was directed by the DRAT to deposit Rs.13,40,774/-, viz., 50% of Rs.26,81,548/-, to show her bonafide and also to prosecute the appeal, now the petitioner is ready and willing to deposit the entire sale amount of Rs.1Crore. Hence, the learned Senior Counsel seeks to allow the civil revision petition.

5. Learned counsel appearing for the Bank as well as the third



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respondent made objection to the submission made by the learned Senior Counsel for the petitioner and they have argued the matter on merits.

6. We are, however, not inclined to go into the merits of the case, because the limited prayer to be considered in the civil revision petition is whether extension of time to deposit the amount should be granted to the petitioner or not.

7. On consideration of the rival submissions, more particularly the submission made by the learned Senior Counsel appearing for the petitioner that the petitioner is ready and willing to pay the entire auction sale amount of Rs.1Crore, we are inclined to set aside the impugned order passed by the Debts Recovery Appellate Tribunal and dispose the civil revision petition with the following directions:-

i) The impugned order passed by the Debts Recovery Appellate Tribunal in I.A.No.279/2022 in I.A.No.359/2021, in AIR (SA) No.86/2021, dated 29.06.2022 is set aside, on condition that the petitioner shall pay a sum of Rs.1,00,00,000/- (Rupees One Crore) by way of a Demand Draft,



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drawn in favour of the Registrar, Debts Recovery Appellate Tribunal, Chennai, within two weeks from the date of receipt of a copy of this order. It is made clear that no further time will be extended.

ii) On receipt of the Demand Draft, the Registry of the Debts Recovery Appellant Tribunal, Chennai, is directed to number the appeal and place the same before the Presiding Officer for passing final order in the appeal.

iii) All the contentions of either side on merits are left open to be raised before the Debts Recovery Appellate Tribunal.

8. With the above directions, this civil revision petition is disposed of. There shall be no order as to costs. Connected miscellaneous petitions are closed.

(D.K.K., A.C.J.)

(P.B.B.J.)

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THE HON'BLE ACTING CHIEF JUSTICE

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