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W.P.No.21650 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM:

THE HON'BLE MR.D. KRISHNAKUMAR, ACTING CHIEF JUSTICE
AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

WP No.21650 of 2024

1.Mr.Raghavendra
2.Mrs.Jayalakshmi
3.Mrs.Annapurna

... Petitioners

versus

1.The Registrar,
The Debt Recovery Appellate Tribunal,
Shastry Bhavan, Haddows Road,
Chennai-600 006.

2.Fed Bank Financial Services Ltd.,
Having its Corporate Office at Kanakin Wall
Street, A Wing, 5th Floor, Unit No.511, and 512,
Andheri-Kurla Road, Chakala Andheri East,
Mumbai 400 093 and having its Branch among
other places at No.4/1, 2nd Cross, Zenith Chambers,
2nd Floor, Next to Hotel AMM Residency, behind
Shell Petrol Bunk, Arekempnanahalli, Wilson Garden,
Bengaluru, Karnataka.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, to call for the records pertaining to the impugned order passed in I.A.No.455 of 2024 dated 04.07.2024 by the Debt Recovery Appellate Tribunal, Chennai and quash the same in its entirety and consequently direct the Debt Recovery Appellate Tribunal to take up the Waiver application and the main appeal and pass orders.

For the Petitioners :Mr.V.Jeyachandran

For the Respondents :first respondent - Tribunal
Ms.B.Priyanka (Vakalat returned)
for second respondent

ORDER

(Made by the Hon'ble Acting Chief Justice)

This Writ Petition is filed challenging the order passed in I.A.No.455 of 2024 dated 04.07.2024 by the Debt Recovery Appellate Tribunal, Chennai and consequently direct the Debt Recovery Appellate Tribunal to take up the Waiver application and the main appeal.

2. The petitioners have filed an application in I.A.No.455 of 2024 seeking advancement of hearing in IA.No.451 of 2024 from 08.07.2024 to



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04.07.2024. IA.No.451 of 2024 is filed by the petitioners seeking advancement of hearing of the waiver application in IA.No.450 of 2024.

When IA No.455 of 2024 came before DRAT, the DRAT, by order dated 04.07.2024, has dismissed the said application by imposing cost of Rs.1,00,000/-. Challenging the same, the petitioners have filed the present writ petition.

3. Learned counsel for the petitioners submits that I.A.No.455 of 2024 has been filed for advance hearing of IA No.451 of 2024, which was filed for early hearing of the waiver application (IA No.450 of 2024). He further submits that since there was necessity for early of the waiver application, IA No.451 of 2024 was filed. Since the said urgent application in IA.No.451 of 2024 was posted on 08.07.2024, the petitioner filed another application in IA.455 of 2024 to advance the hearing of IA No.451 of 2024. However, the Tribunal, without appreciating the case of the petitioners has dismissed the said application and imposed the said cost. Therefore, he seeks for setting aside the order passed by the Tribunal and consequently direct the Debt Recovery Appellate Tribunal to take up the Waiver application.



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4. Learned counsel appearing for the Bank has not made any objection for setting aside the imposition of cost of Rs.1,00,000/-.

5. Considered the submission made by the parties, we are of the view that the said cost imposed by DRAT for a sum of Rs.1,00,000/- is liable to be set aside and accordingly, the cost of Rs.1,00,000/- imposed on the petitioner is set aside.

6. Considering the request made by the learned counsel for the petitioners that there is an urgency for getting appropriate orders from the Appellate Tribunal, we direct the Debt Recovery Appellate Tribunal to dispose of the application in I.A.No.450 of 2024, which has been filed by the petitioners to waive the pre-conditional amount to be deposited under Section 18 (1) of the SARFAESI Act, as early as possible, within a period of three weeks from the date of receipt of a copy of this order. Counter-affidavit to be filed in the meantime by the second respondent bank.

7. With the above directions, the writ petition stands allowed. There



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shall be no order as to costs. Consequently, W.M.P.No.24076 of 2024 is closed.

(D.K.K., ACJ.) (P.B.B., J.)
03.09.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

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- 2.Fed Bank Financial Services Ltd.,
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THE HON'BLE ACTING CHIEF JUSTICE
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P.B. BALAJI, J.

(mrn)

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