



WEB COPY



W.P.No.37759 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.37759 of 2024
and W.M.P.No.40826 of 2024

J.Srinivasalu

.. Petitioner

Vs

The Authorised Officer,
Union Bank of India,
Asset Recovery Branch,
No.2/3, Raja Building,
N.R.Road, Bangalore-560 002.

.. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus certiorarified mandamus calling upon the records of the learned Debts Recovery Appellate Tribunal, Chennai relating to passing of the order dated 14.11.2024 in I.A.No.503 of 2024 in AIR (SA) 789/2024 and to quash the impugned order dated 14.11.2024 requiring the petitioner to deposit 50% as pre-conditional deposit and direct the respondent to permit the petitioner to deposit 25% of the pre-conditional deposit.



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For Petitioner : Mr.S.Praveennath
For Respondent : Mr.K.Balamurali
for Mr.A.Jaishankar

ORDER

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

On 11th December, 2024, the following order was passed:

“Counsel for petitioner states that some breathing time be given and suggests that 50% of Rs.1,09,97,844/- will be deposited within one week and the balance out of Rs.1,09,97,844/- will be deposited within four weeks.

2. If either of the deposits is not made, the appeal filed by petitioner before the Debts Recovery Appellate Tribunal would stand dismissed and petitioner will not challenge the order or ask for extension in any forum. Counsel states that petitioner will simply hand over the mortgaged property for the bank to sell and recover its dues without any protest.

3. Mr.Rajagopal states that by tomorrow morning (12.12.2024), the affidavit to this effect will be filed.

List on 12.12.2024.”

2. The order dated 12th December, 2024 reads as under:



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“Further to this court's order dated 11.12.2024, petitioner has filed an affidavit dated 12.12.2024, in which paragraphs 3 and 4 read as under:

“3.This aforementioned writ petition was listed and came up for hearing on 11.12.2024 before this Division Bench of the Hon'ble Madras High Court, wherein the Hon'ble Division Bench was pleased to based on the submission made by my counsel, pass an order wherein, I, the petitioner was directing me to deposit, Rs.54,98,921.09 within a week and another sum of Rs.54,98,921.09 within four weeks thereafter. Both deposits in favour of the registrar DRAT Chennai.

4. If I default in complying in any of the conditions in the order dated 11.12.2024 of this Hon'ble Court and the appeal preferred by me, may be dismissed. The order of this Hon'ble Court is based on my statement and would not be challenged. I shall on my failure not frustrate or indulge in acts that would prevent taking possession of the property by the respondent.

a. That I shall not appeal the dismissal order passed by the Hon'ble Debt Recovery Appellate Tribunal in AIR(SA) 789/2024 for non-compliance of the Conditional Order dated 11.12.2024, passed by the Hon'ble Division Bench of Madras High Court before any forum and/or Court and/or Tribunal;

b. That I shall not burden this Court and/or any forum and/or Tribunal with litigation with respect to the dismissal of AIR(SA) 789/2024 passed by the Hon'ble Debt Recovery Appellate Tribunal;

(c) that I shall not cause any interferences and/or encumbrances to the delivery of the schedule property to the auction purchaser if I do not comply with the conditional to the dismissal of AIR(SA)



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789/2024 passed by the Hon'ble Debt Recovery Appellate Tribunal."

2. Mr.S.Praveennath states, in paragraph no.3, the words, "... petitioner was directing me to deposit" should be read as, "... petitioner was directed to deposit". In paragraph 4(c), the words, "... if I do not comply with the conditional to the dismissal of AIR (SA) No.789 of 2024 ..." be replaced as "... if I do not comply with the condition noted above leading to the dismissal of AIR (SA) 789 of 2024 ...".

3. Counsel for the bank submitted that petitioner has been a defaulter for a very long time and the attempt is only to prolong. Counsel also states that the property was sold and sale certificate also has been issued.

4. Keeping open respondent's rights and contentions, purely to test the bona fides of petitioner, though we have not expressed any opinion on the merits of the petition, petitioner shall deposit a sum of Rs.55,00,000/- (Rupees Fifty Five Lakhs only) by 12 noon on 16.12.2024.

5. Petitioner has an option of paying over this money to the bank, which shall give credit for the amount paid.

6. Petition be listed at 2.15 p.m. on 16.12.2024."

3. In the affidavit as quoted above, petitioner had agreed to the condition that in case there was a default in complying with any of the conditions mentioned in the affidavit dated 12th December, 2024, the



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appeal may be dismissed.

4. Today, counsel for petitioner states that petitioner is unable to pay the amount of Rs.55.00 lakhs.

5. Therefore, petition is dismissed. There shall be no order as to costs. Consequently, interim application also stands dismissed.

(K.R.SHRIRAM, C.J.)

(SENTHILKUMAR RAMAMOORTHY,J.)

16.12.2024

Index : Yes/No

NC : Yes/No

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To:

The Authorised Officer,
Union Bank of India,
Asset Recovery Branch,
No.2/3, Raja Building,
N.R.Road, Bangalore-560 002.



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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY,J.

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