(2009) 01 MAD CK 0144

In the Madras High Court

Case No : Writ Petition No. 28342 of 2008 and M.P. No''s. 1 and 2 of 2008

V.K. Seshasayee APPELLANT

Vs

Debts Recovery Appellate Tribunal, UCO Bank (Formerly United Commercial Bank), Chennai Main Branch, Indian Overseas Bank, Vadalur Branch and Syndicate Bank, Chennai Main Branch RESPONDENT

Date of Decision : 06-01-2009

Acts Referred:

Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 20, 21

Citation : (2009) 01 MAD CK 0144

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.;V. Dhanapalan, J

Bench : Division Bench

Advocate : A.L. Somayaji for Sriram, for the Appellant; Abitha Banu, for Surana and Surana for Respondents 2 to 4, for the Respondent

Judgement

S.J. Mukhopadhaya, A.C.J.

1. This writ petition has been preferred by the petitioner/guarantor against the interim conditional order dated 29th October, 2008 passed by the

Debt Recovery Appellate Tribunal, Chennai in I.A. No. 308 of 2008 in M.A. No. 244 of 2008. By the said order, the Debt Recovery Appellate

Tribunal directed the petitioner to deposit a sum of Rs. 1 crore with the first respondent/UCO Bank therein in two equal instalments each at Rs. 50

lakhs and on such deposit, the bank has been directed to keep the said amount in an interest earning no-lien account and granted interim stay till

01.12.2008.

2. As the case can be disposed of on a short point, it is not necessary to discuss all the facts, expect the relevant one.

3. An original suit in C.S. No. 595 of 1996 was jointly filed by three banks

namely, UCO Bank, Indian Overseas Bank and Syndicate Bank for

recovery of the amount due. However, on constitution of Debt Recovery Tribunal, the case was transferred to the aforesaid Tribunal and

numbered as T.A. No. 673 of 1997 and is pending before the Debt Recovery Tribunal-I, Chennai. The petitioner filed an application in I.A. No.

465 of 2000 in T.A. No. 673 of 1997 to cross examine one of the plaintiffsï¿½/ respondents witness namely, an officer of the bank. The said

application having came to be dismissed, the petitioner preferred an appeal u/s 20 of the Recovery of Debts Due to Banks and Financial

Institutions Act, 1993 before the Debt Recovery Appellate Tribunal, Chennai seeking for stay of all further proceedings and the impugned

conditional stay order was passed on 29th October, 2008.

4. Learned Counsel appearing on behalf of the petitioner submitted that the Debt Recovery Appellate Tribunal cannot direct to deposit the amount

in terms of Section 21 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 as no final determination having been made by

the Debt Recovery Tribunal-I, Chennai. On the other hand, learned Counsel appearing on behalf of all the three banks submitted that it was open

to the Appellate Tribunal to pass a conditional interim order.

5. At this stage, learned Counsel appearing on behalf of the petitioner submitted that the petitioner do not want to press the interim application i.e.,

I.A. No. 308 of 2008, which was preferred by the petitioner before the Debt Recovery Appellate Tribunal, Chennai in M.A. No. 244 of 2008. It

is submitted that if the petitioner do not press the application for interim stay, the question of payment of conditional amount will not arise. An

endorsement has also been made by the learned Counsel appearing on behalf of the petitioner.

6. We have heard the learned Counsel appearing for the parties, and noticed the rival contentions. It is true that for preferring an appeal u/s 20 of

the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, no pre-deposit is required to be made u/s 21 of the Recovery of Debts

Due to Banks and Financial Institutions Act, 1993 in a case where final determination has not been made by the Debt Recovery Tribunal.

However, it is always open to the Appellate Tribunal to pass conditional interim order by directing person concerned to deposit certain amount in case interim order is sought for. In the present case, as we find that the petitioner do not want to press the application for interim order (I.A. No.

308 of 2008 in M.A. No. 244 of 2008), we allow the petitioner to do so and accordingly, direct the Appellate Tribunal to dismiss I.A. No. 308 of

2008 in M.A. No. 244 of 2008 as not pressed. Interim stay has been granted till 1st December, 2008. In the absence of any extension of stay, the

said stay order will automatically stand vacated.

7. So far as M.A. No. 244 of 2008 is concerned, the Appellate Tribunal is suppose to decide the same on merits. However, in the absence of any

stay, the Debt Recovery Tribunal-II, Chennai can proceed with T.A.No.637 of 1997 on merits and pass appropriate orders, on hearing the

parties. The Debt Recovery Tribunal-II, shall take into consideration the fact that the case is pending since 1996 and now more than 12 years have

passed. The Appellate Tribunal is also supposed to decide the appeal at an early date, without unnecessary adjournments, preferably within a

month.

8. The writ petition stands disposed of with the aforesaid directions/observations. But, however, there shall be no order as to costs. Consequently,

miscellaneous petitions are closed.