

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 29823 of 2014 (C)

PETITIONER :

**M/S.SLS EXPORTS (P) LTD.,
F-117, PIONEER TOWERS, NO.1,
MARINE DRIVE, COCHIN -682 031,
REP. BY ITS MANAGING DIRECTOR, B.HARIKRISHNAN,
AGED 42, S/O.BALAKRISHNAPILLAI.**

**BY ADVS.SRI.PRAVEEN K. JOY
SRI.TA.JOY**

RESPONDENT(S):

- 1. UNION OF INDIA,
REP. BY SECRETARY, MINISTRY OF BANKING & FINANCE,
PARLIAMENT, NEW DELHI-1**
- 2. THE CHIEF GENERAL MANAGER,
STATE BANK OF INDIA, GRIEVANCE REDRESSAL COMMITTEE,
STRESSED ASSETS MANAGEMENT GROUP, STATE BANK BHAVAN,
MADAM CARE ROAD, MUMBAI -400 021.**
- 3. THE CHIEF MANAGER AND AUTHORISED OFFICER,
STATE BANK OF INDIA,
STRESSED ASSETS MANAGEMENT BRANCH,
RED CROSS BUILDING, 32, MONBETH ROAD, EGMORE,
CHENNAI -600 008**
- 4. THE ASSISTANT GENERAL MANAGER,
STATE BANK OF INDIA, REGIONAL OFFICE (SAMG),
TRIVANDRUM.**

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 TO R4 BY ADV. SRI.R.S.KALKURA,SC, SBI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-02-2015, ALONG WITH WPC.NO. 29824/2014 & WPC.NO. 29825/2014,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 COPY OF THE JUDGMENT DATED 16/5/14 IN WPC.NO. 12648/14 OF THIS HONOURABLE COURT
- EXHIBIT P2 COPY OF THE ORDER DATED IN RP 504//14 OF THIS HONOURABLE COURT
- EXHIBIT P3 COPY OF THE NOTICE DATED 13/9/2014 OF THE 3RD RESPONDENT
- EXHIBIT P4 COPY OF THE OBJECTION TO THE RESPONDENT BANK.

RESPONDENT(S)' EXHIBITS

- EXHIBIT R2(A) COPY OF THE GUARANTEE DEED EXECUTED BY THE PETITIONER VIZ. M/S.SLS EXPORTS PVT. LTD. IN FAVOUR OF THE BANK DATED 13/9/2008
- EXHIBIT R2(B) COPY OF THE DEED OF GUARANTEE DATED 21/10/2011 EXECUTED BY THE PETITIONER HEREIN VIZ.M/S.SLS EXPORTS PVT. LTD. IN FAVOUR OF THE BANKING
- EXHIBIT R2(C) COPY OF THE LETTER DATED 23/3/2013 SUBMITTED BY M/S. SABARI EXIM PVT LTD TO THE BANK.
- EXHIBIT R2(D) COPY OF THE RESOLUTION DATED 31/7/2013 OF THE MID CORPORATE REGIONAL OFFICE, CHENNAI
- EXHIBIT R2(E) COPY OF THE LETTER DATED 3/8/2013 ISSUED BY THE BANK TO M/S. SABARI EXIM PVT.LTD
- EXHIBIT R2(F) COPY OF THE LETTER DATED 3/8/2013 ISSUED BY THE BANK TO M/S. SABARI EXIM PVT. LTD
- EXHIBIT R2(G) COPY OF THE NOTICE DATED 08/11/2014 ISSUED BY THE BANK TO THE PETITIONER REGARDING THE VIDEO CONFERENCE PURSUANT TO EXHIBIT P4
- EXHIBIT R2(H) COPY OF THE DECISION COMMUNICATED BY THE BANK TO THE PETITIONER ON EXHIBIT P4 DATED 09/01/2015.

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P.A.TO.JUDGE

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C) Nos. 29823, 29824 & 29825 of 2014
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Dated this the 19th day of February, 2015

JUDGMENT

In all these writ petitions, the petitioners, who are a Company and its directors that had initially stood guarantee for a loan advanced by the respondent Bank to M/s.Sabari Exim Pvt. Ltd., are aggrieved by the steps taken by the respondent Bank against the petitioners under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, to recover amounts due from the said M/s.Sabari Exim Pvt. Ltd.

2. It is the case of the petitioners that, although, initially they had stood as guarantors to the loan advanced to the borrower by mortgaging their properties as security for the loan advanced by the respondent Bank, they had subsequently obtained a release of the said property from the respondent Bank. It is their contention, therefore, that once their properties were released by the respondent Bank, the respondent Bank had no security interest, based on which they could proceed against the petitioners in terms of the SARFAESI Act.

3. When the matter was taken up for orders today, it was submitted by Sri.R.S.Kalkura, learned Standing Counsel appearing for the respondent Bank, that the Bank does not intend to proceed

against the petitioners in terms of the SARFAESI Act. He would point out that, notwithstanding that the properties of the petitioners that were mortgaged to the respondent Bank were subsequently released, the petitioners continued to be guarantors to the loan advanced to M/s.Sabari Exim Pvt. Ltd., and under those circumstances, it was always open to the respondent Bank to proceed against the petitioners under the provisions of other applicable enactments.

Taking note of the submissions of the learned standing counsel for the respondent Bank, and recording his submission that no proceedings under the SARFAESI Act will be taken or continued against the petitioners, this writ petition is closed without prejudice to the right of the respondent Bank to proceed against the petitioners in accordance with law under the provisions of any other enactment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/19/02/

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