

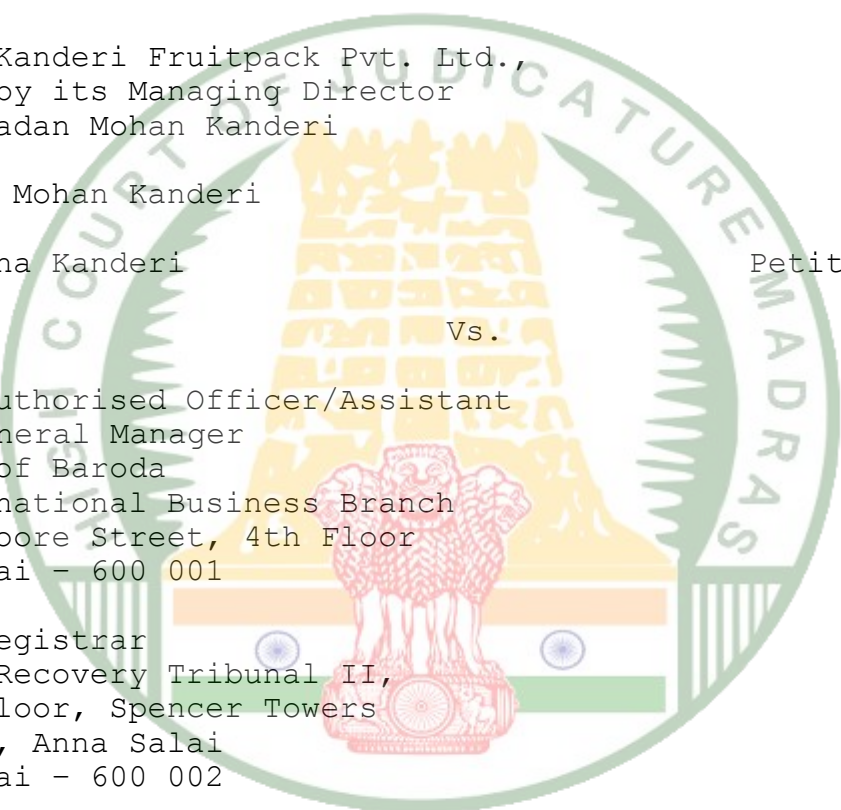
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-01-2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P.No.30460 of 2014
and M.P.No.1 of 2014

- 
1. M/s. Kanderi Fruitpack Pvt. Ltd.,
Rep. by its Managing Director
Mr. Madan Mohan Kanderi
2. Madan Mohan Kanderi
3. Kavitha Kanderi
- Petitioners
- Vs.
1. The Authorised Officer/Assistant
General Manager
Bank of Baroda
International Business Branch
45, Moore Street, 4th Floor
Chennai - 600 001
2. The Registrar
Debt Recovery Tribunal II,
4th Floor, Spencer Towers
770 A, Anna Salai
Chennai - 600 002
3. The Chief Metropolitan Magistrate
Egmore, Chennai - 600 008
- Respondents

Writ Petition under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records pertaining to the Order dated 27.10.2014 in IBB: ADV:27/404 of the 1st respondent quash the same as illegal arbitrary and against principles of natural justice and consequently direct the 1st respondent to issue No Objection Certificate to the petitioners for sale in respect of the immovable properties viz. Agricultural Land with Mango Plantations at Chinnaettivakkam Sathyavedu Mandal Chittoor District of Andhra Pradesh comprised in Survey Nos.88-1 88-2 94-1B 96-B 96-C & 100-B admeasuring 27 Acres and 50 Cents Registration District of Balaji Tirupathi and Registration Sub-

District of Sathyavedu owned by the petitioners 2 and 3 without insisting for any undertaking from the petitioners 2 and 3 and further direct the first respondent to appropriate the sale proceeds towards the dues in Foreign Bills Purchase Dues of the first petitioner within a time frame as may be fixed by this Court.

For petitioners Mr. R. Nagasundaram
For respondents Mr. M. Santhanaraman for R1
 R2 - Tribunal
 R3 - No appearance

ORDER

(Order of the Court is made by SATISH K. AGNIHOTRI, J.)

With consent of both the parties, the appeal is taken up for final disposal.

2 The facts, as projected by the petitioner are that the first respondent issued a possession notice on 24.12.2012 in respect of the residential property of the second petitioner which was a secured asset. Thereafter, the first petitioner made a representation to the first respondent on 31.12.2012 seeking release of the agricultural property measuring 25.0 acres at Sathyavedu Taluk, Chittoor District, Andhra Pradesh, belonging to the petitioners 2 and 3. The auction sale of the said property was held on 05.04.2013. However, the same could not be proceeded with and concluded. In the meantime, the first respondent initiated recovery proceedings under the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (for short "the Act") in O.A. No.68 of 2013. The petitioners had also entered appearance in the said proceedings.

3 The petitioners seek interim relief in the instant writ petition till the disposal of the said proceedings and also quashing of the letter dated 27.10.2014 of the Assistant General Manager, Bank of Baroda, whereunder, the petitioners have been informed that a proceedings has been initiated under the provisions of the SARFAESI/RDDBFI Acts for recovery of dues in respect of their accounts. The said letter does not create any cause of action questioning the information to initiate proceedings for recovery of the dues and as such, we are not inclined to pass any order on that letter.

4 Needless to state that the order dated 16.04.2014 passed by the Chief Metropolitan Magistrate, Egmore, Chennai, which was under challenge in W.P.No.30459 of 2014 is dealt with separately in the said writ petition, was only to ensure taking over possession of the property in question. Thereafter, the subsequent proceedings for recovery of loan amount was initiated. The said order cannot be quashed at this stage, as the petitioners have not made out any case that the procedure as contemplated under Section 14 of the SARFAESI

Act and also the Rules made thereunder, has not been followed and as such, the same has become final. So far as the question of grant of interim relief of status quo as obtained today is concerned, the same cannot be directed, as the dispute is pending consideration.

5. Liberty is given to the petitioner to make an application for settlement with the respondent-Bank in the pending O.A.No.68 of 2013. The Tribunal, in turn, is directed to consider the same on its merit and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

6. The writ petition is disposed of. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

glp

To

1. The Registrar
Debt Recovery Tribunal II,
4th Floor, Spencer Towers
770 A, Anna Salai
Chennai - 600 002
2. The Chief Metropolitan Magistrate
Egmore, Chennai - 600 008
3. The Authorised Officer/Assistant
General Manager
Bank of Baroda
International Business Branch
45, Moore Street, 4th Floor
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+ 1 cc to Mr.R. Nagasundaram, advocate Sr.642
+ 1 cc to Mr.M. Santhanaraman, advocate sR.810

W.P.No.30460 of 2014
and M.P.No.1 of 2014

SSI (CO)
Eu 20.1.15