

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2015

CORAM

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

W.P. No.30855 of 2014 and M.P. Nos.1 & 2 of 2014

Radiant Filters Engineering Pvt. Ltd.
represented by its Managing Director
Pranav Mehta
No.148/2, Panamkattupakkam Village
Melakottaiyur (PO)
Via Melakottaiyur
Chennai 600 127

Petitioner

vs.

1 Union of India
represented by the Secretary to Government
Ministry of Finance
Department of Economic Affairs
Room No.34-C
New Delhi 110 001 - India

2 The Regional Manager
Regional Office
Indian Overseas Bank
Anna Salai
Chennai 600 002

3 The Authorised Officer
Indian Overseas Bank
Texco Srinagar Colony Branch
6a South Mada Street
Srinagar Colony
Saidapet, Chennai 600 015

4 The Governor
Reserve Bank of India
Central Office
Mumbai

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of declaration declaring the provisions of Section 2(1)(o) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Act, 2002, as arbitrary, unconstitutional and opposed to public policy, null and void and the same being ultra vires the Constitution of India and Clause 2.1 of Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances issued by the second respondent as ultra vires the Constitution of India, void ab initio, illegal and unconstitutional and consequently, forbear the second respondent bank from continuing the proceedings initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, as against the petitioner herein with reference to the subject property morefully set out in the petition schedule.

For petitioner Mr. S.M. Deenadayalan

For RR 2 & 3 Mr. F.B. Benjamin George
Standing Counsel

ORDER

The question involved in this writ petition, viz., the validity and constitutionality of Section 2(1)(o) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short "the SARFAESI Act") came up for consideration in a batch of writ petitions. A Division Bench of this Court, in Deccan Chronicles Holdings Ltd. and others vs. Union of India, represented by its Joint Secretary, Ministry of Finance, Department of Economic Affairs, New Delhi- 110 011 and others¹, upheld the constitutional validity of the said provision and dismissed the said batch of writ petitions.

2 Seemingly, the very same provision of the SARFAESI Act was put to challenge before the Gujarat High Court as well and the Gujarat High Court also upheld the constitutional validity of the said provision.

3 The aforesaid orders passed by this Court as well as Gujarat High Court was taken on appeal before the Supreme Court and the Supreme Court, in Keshavlal Khemchand and Sons Pvt. Ltd. and Others vs. Union of India [W.P. (Civil) No.901 of 2014, etc. batch], has upheld the constitutional validity of the said provision vide judgment dated 28.01.2015.

1 2014(4) MLJ 257

4 In view of the above, this writ petition is liable to be dismissed and the same is accordingly dismissed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

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+ 1 cc to Mr.S.M. Deenadayalan, Advocate SR.19228
+ 1 cc to Mr.F.B. Benjamin, Advocate SR.19355

KU(CO)
EU 20 .04.2015

W.P. No.30855 of 2014