

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2015

CORAM

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

C.R.P.(PD)No.450 of 2015
and
M.P.No.1 of 2015

1.M/s.Bharath International Manufacturing &
Trading Private Ltd.,
A private Limited Company,
having its Registered office at
181, North Usman Road, T.Nagar,
Chennai-600 017.

2.R.Vasan

3.Bharath Vasan

... Petitioners

Vs.

M/s.Asset Reconstruction Company (India) Ltd.,
Arcil Arms Office,
715-C, 7th Floor,
Spencer Plaza Phase-II,
769, Anna Salai,
Chennai-600 002.

.. Respondent

This civil revision petition is preferred under Article 227 of the Constitution of India against the order dated 5.1.2015 passed in I.A.No.283 of 2014 in O.A.No.50 of 2013 on the file of the Debts Recovery Tribunal-II, Chennai and to set aside the said order.

For Petitioners : Mr.V.Bhiman
for M/s.Sampathkumar & Asso.

ORDER

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

Challenging the legality and validity of the order dated 05.01.2015 passed in I.A.No.283 of 2014 in O.A.No.50 of 2013 by the Debts Recovery Tribunal-II (for short "The Tribunal"), Chennai, the petitioners have come up with this petition.

2. The sole respondent filed an application, being I.A. on the file of the Tribunal, seeking transposing of the respondent in place of State Bank of India to continue the proceedings in the pending O.A. The application was predicated on the fact that the State Bank of India had assigned loans, its right, interest in and the loans and secured properties including the subject matter of the dispute to the respondent herein/ petitioner therein under Deed Assignment dated 18.7.2014 executed between them. Thus, the respondent herein be permitted to be transposed / substituted in place of the original applicant / State Bank of India.

3. The Tribunal, examining the facts of the case, came to the conclusion that the transposition of the respondent herein in place of the State Bank of India was not proper. However, the respondent herein was permitted to be impleaded as second applicant in the O.A. along with the State Bank of India/ original secured creditor and the applicant.

4. The petitioners herein were the respondents before the Tribunal being the borrower. The learned counsel appearing for the petitioners herein would submit that the Tribunal failed to appreciate that the State Bank of India was the secured creditor and as such, in its place, no other institution including the respondent herein can be impleaded as applicant.

5. We have examined the contention of the learned counsel for the petitioners and also perused the pleadings and documents appended thereto.

6. There is no dispute that the original secured creditor have sold the secured assets under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (For short "SARFAESI Act") to the respondent herein, who sought transposition in place of the original secured creditor, i.e., State Bank of India. The Presiding Officer, while declining to transpose the respondent herein in lieu of the State Bank of India/original secured creditor, permitted the respondent to be impleaded as second applicant. We are of the view that the direction of the Tribunal to permit the respondent herein to be impleaded as second applicant is perfectly proper and in accordance with the constitutional scheme. If the respondent herein has stepped into the shoes of the original secured creditor, the respondent has full right to pursue the remedy and proceed with the pending case.

7. For the reasons mentioned hereinabove, we do not find any error or irregularity in the order of the Tribunal sought to be impugned before us. Accordingly, this civil revision petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

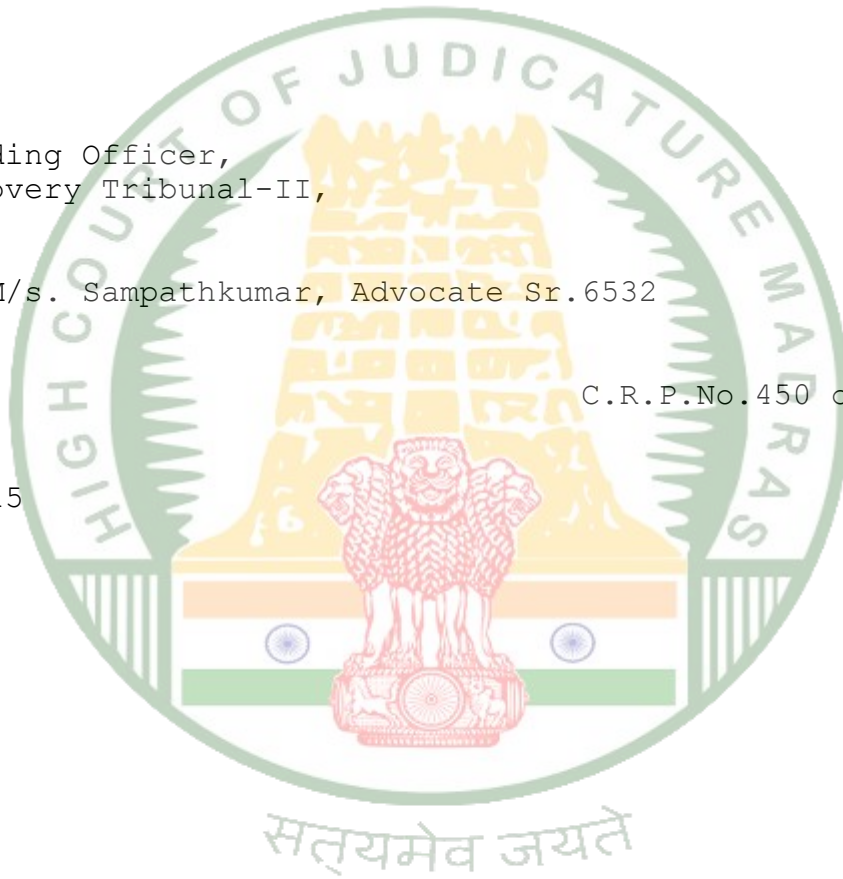
To

The Presiding Officer,
Debts Recovery Tribunal-II,
Chennai.

+1 cc to M/s. Sampathkumar, Advocate Sr.6532

C.R.P.No.450 of 2015

SCD(CO)
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