

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.26692 of 2015
and
M.P. Nos.1 - 3 of 2015

Sri Sivaraam Spinning Mill
No.674/1C, Kulathur Road
Venkatapuram Post
Coimbatore 641 014
represented by Partner K.R. Guruswami

...Petitioner

vs.

1 The Authorised Officer
Stressed Asset Management Branch
State Bank of India
1112, Raja Plaza
Avinashi Road
Coimbatore

2 State Bank of India
represented by its Chief Manager
Commercial Branch
Veerappan Complex
24, Stanes Road
Thiruppur 641 602

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for records relating to the impugned e-auction sale notice dated 13.07.2015 vide SAMB/CBE/CLO II/544 and subsequent very same sale notice dated 16.07.2015 vide SAMB/CBE/CLO-II/560 and published in the local daily on 15.07.2015 and quash the same and consequently direct the respondent bank to accept the full and final settlement offered by the petitioner by taking into consideration, all relevant factors to

enable the petitioners to settle the amount within a reasonable time to be fixed by this Court.

For petitioner : Mr. R. Nagasundaram
for Mr. A.V. Raja

ORDER
(made by K.K. SASIDHARAN, J.)

The challenge in this writ petition is to the e-auction sale notices dated 13 July 2015 and 16 July 2015, whereby and whereunder, the Authorised Officer, Stressed Asset Management Branch, State Bank of India, Coimbatore, proposed to auction the secured asset on 27 August 2015.

2 Heard the learned counsel for the petitioner.

3 The petitioner availed financial assistance from the Commercial Branch of State Bank of India, Thiruppur. Since repayment was not made in accordance with the payment schedule, the bank initiated recovery proceedings invoking provisions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the SARFAESI Act"). A notice under Section 13(2) of the SARFAESI Act was issued on 6 May 2010. The petitioner challenged the measures taken under the SARFAESI Act before the Debts Recovery Tribunal, Coimbatore in S.A. No.97 of 2011. The petitioner appears to have submitted a proposal agreeing to pay the amount by way of One Time Settlement pursuant to the order dated 9 January 2014 in S.A. No.97 of 2011. The Debts Recovery Tribunal, Coimbatore, is now seized of the matter.

4 While so, the bank issued the impugned e-auction sale notices to dispose of the secured asset in public auction.

5 Since the petitioner has already initiated proceedings before the Debts Recovery Tribunal, Coimbatore, we initially pointed out to the learned counsel that the impugned notices could be challenged before the Debts Recovery Tribunal, Coimbatore. The learned counsel submitted that the Presiding Officer is on leave and as the sale is posted on 27 August 2015, it would not be possible for the petitioner to approach the Debts Recovery Tribunal, Coimbatore, seeking urgent interim orders.

6 In view of the said submission, we verified the factual position as to whether the Presiding Officer is available to entertain the application.

7 We are informed by the Registry that the Presiding Officer has availed leave and he will be joining duty only on 31 August 2015. We are, therefore, of the view that interim protection should be given to the petitioner.

8 The respondent bank is permitted to proceed with the auction, as scheduled. However, confirmation shall not be made till 7 September 2015.

9 The petitioner is given liberty to move the Debts Recovery Tribunal, Coimbatore on or before 31 August 2015 for appropriate relief. The Debts Recovery Tribunal is directed to entertain the application and pass appropriate orders on merits and as per law, as expeditiously as possible and in any case, on or before 3 September 2015.

10 The writ petition is disposed of with the above direction. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Authorised Officer
Stressed Asset Management Branch
State Bank of India
1112, Raja Plaza
Avinashi Road
Coimbatore

2 The Chief Manager
State Bank of India
Commercial Branch
Veerappan Complex
24, Stanes Road, Thiruppur 641 602

3 The Presiding Officer,
Debts Recovery Tribunal,
Coimbatore.

1 CC to Mr. A.V. Raja, Advocate SR.No. 45585

W.P. No.26692 of 2015

PPA (CO)
PSI (26.08.2015)



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