

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND

THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P. No.27777 of 2014 and M.P. No.1 of 2015

T. Ashok Surana

Petitioner

Vs.

Small Industries Development Bank of India
represented by its Authorised Officer
Overseas Towers
756 L Anna Salai (Opp. TVS)
Chennai 600 002

Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking a writ of prohibition prohibiting the respondent bank from pursuing any further recovery measure pursuant to Section 13(2) demand notice dated 21.04.2011 issued against the assets mentioned therein.

For petitioner Mr. T. Ashok Surana
Party-in-person

For respondent Mr. Hemkumar
for M/s. Ganesh and Ganesh

ORDER

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

The petitioner-in-person has come up with the instant writ petition, seeking a writ of prohibition against the respondent bank from proceeding with any further recovery measure pursuant to the demand notice dated 21.04.2011 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act").

2 Indisputably, the demand notice under Section 13(2) of the SARFAESI Act was issued on 21.04.2011, which, according to the respondent bank was re-issued on 03.05.2011, after correcting the typographical error. The petitioner apprehends that the respondent bank may take measures prescribed under Section 13(4) of the SARFAESI

Act, which is prohibited beyond a period of 60 days under the provisions of Section 36, *ibid*.

3 The petitioner is seeking a writ of prohibition forbidding the Bank from taking any measure under Section 13(4) of the SARFAESI Act. The well defined meaning of writ of prohibition is to forbid or stop the lower court or Tribunal to perform an act outside its jurisdiction in a pending particular case, where it has no legal jurisdiction of the trial. In the case on hand, the petitioner has not come up for a direction by way of writ of prohibition against any lower court or Tribunal, wherein the case is pending without having legal jurisdiction. Thus, it is misconceived and deserves to be rejected.

4 As on date, no measure has been taken by the respondent bank under Section 13(4) of the SARFAESI Act. The petitioner's apprehension is mis-placed. The petitioner seeks a writ of prohibition forbearing the respondent bank from taking any measure under Section 13(4) of the SARFAESI Act, in future, which is not contemplated by the respondent bank, at this stage. If, in the event, the respondent bank proceeds to take any measure under Section 13(4) of the SARFAESI Act on the basis of the aforestated demand notice, the petitioner is at liberty to question the same by way of a proper petition. Thus, at this stage, we have no hesitation in holding that this writ petition is pre-mature.

5 Accordingly, the writ petition is dismissed as not maintainable. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

The Authorised Officer
Small Industries Development Bank of India
Overseas Towers
756 L Anna Salai (Opp. TVS)
Chennai 600 002

1 cc to Ganesh nd Ganesh, Advocate, Sr. 17371

W.P. No.27777 of 2014

CTK (CO)
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