

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2015

CORAM

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

W.P.No.2778 of 2015
and
M.P.No.1 of 2015

K.Subramanian,
Datalogics India Pvt. Ltd.,
No.54, KB Dasan Road,
2nd Floor, SIET College Ave.,
Teynampet, Chennai-600 018. ... Petitioner

Vs.

1.The Authorised Officer,
Bank of Baroda,
Teynampet Branch
Chennai-600 018.
2.The Presiding Officer,
Debt Recovery Tribunal-III,
Spencer Towers, Anna Salai,
Chennai. ... Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of certiorari to call for the records in order dated 20.1.2015 in IA No.61 of 2015 in SA No.23 of 2015 on the file of the second respondent and quash the same as illegal, incompetent, unconstitutional and without jurisdiction.

For Petitioner: Ms.S.Kavitha

ORDER

Challenging the legality and validity of the order dated 20.01.2015 passed by the Debt Recovery Tribunal-III in I.A.No.61 of 2015 in SA No.23 of 2015, the petitioner has come up with this writ petition.

2. The case of the petitioner is that the property in question is an agricultural land and there are also other properties, which are declared as Secured Asset, which can be considered for attaching the property. The grant of stay of attachment of agricultural land

subject to payment of Rs.5 lakhs on or before 20.2.2015 is unsustainable in law.

3. Indisputably, the respondent Bank invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (For short "SARFAESI Act") issued a demand notice under Section 13(2) of the SARFAESI Act on 12.05.2009 and thereafter, possession notice under Section 13(4) of the SARFAESI Act was issued on 23.12.2014. The outstanding dues was to the tune of Rs.24,80,460.27.

4. The petitioner filed an application, challenging the possession notice issued under Section 13(4) of the SARFAESI Act. He had also filed an application for an interim relief to grant stay. The learned Tribunal, while granting stay, directed the petitioner to deposit a sum of Rs.5 lakhs against the outstanding dues of Rs.24,80,460.27. At this stage, whether the land is the agricultural land or whether the said land can be attached or not, cannot be decided. The petitioner ought to have deposited the amount, which is about 25% of the total outstanding dues, to show bonafide intention to settle the outstanding dues.

5. We do not find any reason to waive the deposit of this amount on the grounds which have been raised by the petitioner in this petition. Thus, the writ petition is dismissed, reserving liberty to the petitioner to raise all grounds available under the provisions of law before the Tribunal in the pending application. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Authorised Officer,
Bank of Baroda,
Teynampet Branch
Chennai-600 018.
- 2.The Presiding Officer,
Debt Recovery Tribunal-III,
Spencer Towers, Anna Salai,
Chennai.

+ 2 ccs to Ms. S. Kavitha, Advocate SR.6105

W.P.No.2778 of 2015

TEJ(CO)

Eu 12.02.15