

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2015

CORAM:

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

W.P. No. 30512 of 2015

1. CMS Educational Trust,
rep. By its Chairman
C. Muthusamy,
CMS Nagar, Ernapuram,
Namakkal 637 003.

2. C. Muthusamy

3. M. Shanthi

Petitioners

Vs.

The Chief Manager/Authorised Officer,
Bank of Baroda,
Namakkal Branch,
107 Paramathy Road,
Namakkal 637 003.

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondent to consider the 1st petitioner's Letter/ Representation dated 30.5.2014 to release some portion of Schedule Property mortgaged with them worth about Rs.20 Crores to the petitioners for selling and depositing the Sale proceeds to the respondent bank towards their liability.

For petitioners : Mr. S.V. Jayaraman
Sr. Counsel
for M/s. T. Dhanasekaran

ORDER

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

The instant writ petition has been filed seeking a direction to the respondent-Bank to consider the 1st petitioner's letter/representation dated 30.5.2014 to release some portion of Schedule Property mortgaged with them worth about Rs.20 crores to the petitioners for selling the same and depositing the sale proceeds to the respondent bank in settlement of their liability.

2. The case of the petitioners is that pursuant to the notice dated 08.05.2014 issued under Section 13(2) Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "the SARFAESI Act"), the first petitioner-trust has made a representation dated 30.05.2014 under the provisions of Section 13(3-A) of the SARFAESI Act , requesting to release certain portions of the property for mobilising funds and settling the outstanding dues. But, no decision has been taken till date. It is also the case of the petitioners that the respondent-Bank is under an obligation to respond to the said representation by passing a reasoned order. In that view of the matter, the respondent-Bank may be directed to consider the representation as aforesaid, on its own merits and in accordance with law.

3. Be that as it may, we are not inclined to express any opinion on the merits of the case. However, we make it clear that, if the representation made by the first petitioner-trust under Section 13 (3-A) of the SARFAESI Act, is still pending consideration, the respondent-Bank is under an obligation to consider the said representation, on its own merits and in accordance with law, before taking any consequential action.

4. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To
The Chief Manager/Authorized Officer,
Bank of Baroda, Namakkal Branch,
107,Paramathy Road, Namakkal - 637 003.

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