

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2015

CORAM:

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

W.P. Nos. 31737 to 31739 of 2015
and
M.P. Nos. 1 of 2015

G.K. Senthilrajan

...Petitioner
(In WP No.31737/2015)

N. Gunasekar

...Petitioner
(In WP Nos.31738 &
1739/2015)

Vs.

1. City Union Bank Limited,
Mandavelli Branch,
rep. By its Authorised Officer,
" Keerthis" No.67 Mandavelli Street,
Mandavelli, Chennai 600 028.

2. City Union Bank Limited,
Administrative Office,
rep. By its Authorised Officer,
No.24-B, Gandhi Nagar,
Kumbakonam 612 001.

Respondents
(In all the W.Ps.)

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for records relating to the Notice No.C.O./REC/ /2014-15 dated 31.7.2015 issued by the 2nd respondent under Section 13(2) of the SARFAESI Act 2002 and quash the same in respect of Schedule - D

properties mentioned therein as the provisions of the SARFAESI Act 2002 not to apply for agriculture land as per section 31(i) of the SARFAESI Act, 2002.

For petitioner : Ms. P.T. Asha
for
Mr. K.P. Narayanan

COMMON ORDER

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

Impugning the notice dated 31st July, 2015 issued under the provisions of Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "the Act") insofar as properties mentioned therein under "D" schedule, the petitioners have come up with these writ petitions.

2. The main grievance of the petitioners is that a portion of the secured assets is an agricultural land, which is exempted from the applicability of provisions of the Act, as prescribed under Section 31(i), *ibid*.

3. Under the scheme, as stipulated under the provisions of the Act, pursuant to the demand notice made under Section 13 (2) of the Act, the petitioners are given two options. Firstly, to make payment of outstanding dues within a period of sixty days. If it is not feasible, to make a representation / objection under the Act. The borrower / guarantor is at liberty to raise the issue of jurisdiction and applicability of the provisions of the Act, if so advised.

4. Seemingly, no representation/objection pursuant to the impugned notice has been given by the petitioners and as such, we are not inclined to interfere with the impugned notice, at this stage.

5. Accordingly, these writ petitions stand dismissed, reserving liberty to the petitioners to make representation/objection in respect of applicability of the provisions of the Act to the land in question, if so advised. We make it clear that if such representation is made, the respondent-Bank is under an obligation to consider the same,

adverting to all the objections raised therein and pass appropriate order before taking recourse to the other provisions of the Act. No costs. Connected miscellaneous petitions are dismissed.

-Sd/-

Assistant Registrar(cs-II)

//True copy//

Sub Assistant Registrar

To

1. The Authorised Officer,
City Union Bank Limited,
Mandavelli Branch,
" Keerthis" No.67 Mandavelli Street,
Mandavelli, Chennai 600 028.
2. The Authorised Officer,
City Union Bank Limited,
Administrative Office,
No.24-B, Gandhi Nagar,
Kumbakonam 612 001.

+2 cc to Mr.L.P.Narayanan, Advocate(sr.54548)

सत्यमेव जयते

W.P.31737 to 31739 of 2015

NM(co)
cp 19/10/2015

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