

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2015

CORAM

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

W.P.No.3232 of 2015
and
M.P.No.1 of 2015

1.N.Subramani
2.R.Krishnamurthy
3.L.Violet Jeevakumari
4.Deviram Sharma
5.M.Loganathan
6.P.Gunasekaran
7.Ranjan
8.D.Getzima
9.K.Shanthi
10.Kishori Kumar

... Petitioners

vs.

1.Andhra Bank,
rep by its Authorised Officer,
Mowbrays Road Branch,
No.265, T.T.K.Salai,
Alwarpet, Chennai-600 018.
2.M/s.Better Labels Manufacturing Company Pvt. Ltd.,
rep by its Directors,
Mr.Dilip K.Sutaria,
Office address No.D8, Industrial Estate,
Guindy, Chennai
Address : No.8B, Royal Enclave,
E.C.R. Injambakkam
Chennai-600 115.
3.The Assistant Commissioner,
Employees Provident Fund,
Rajaji Salai, Tambaram,
Chennai-600 045.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the first respondent from conducting e-auction of the property at New No.308 (Old No.265-A) Mowbrays Road, T.T.K. Salai, Chennai-600 018 on 05.02.2015 as published in daily paper "New Indian Express" dated 6.1.2015 and also

from selling the remaining machineries of the second respondent or in any other future date without settling the amounts due to the petitioner workman.

For petitioner : Ms.G.Devi

ORDER

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

The petitioners, claiming to be the employees working with the second respondent, have come up with this writ petition, questioning the legality and validity of the e-auction notice dated 5.1.2015 published in the "New Indian Express" on 6.1.2015.

2. The case of the petitioners is that the second respondent had failed to make payment to the petitioners/employees. Further, pursuant to the default in payment of dues to the tune of Rs.13,89,04,335.35, the first respondent Bank had issued an auction notice to recover the outstanding dues on sale of the secured assets. It is contended that the petitioners have first charge over the machineries, which have been taken over on 08.11.2014. It is further contended that dues of the petitioners is about Rs.50 lakhs and the upset price for the auction sale has been fixed at Rs.10,63,00,000/-. Thus, the first respondent be directed to deposit a sum of Rs.50 lakhs, out of the auction sale proceeds towards the outstanding dues of the petitioners/employees working with the second respondent.

3. The issue, as aforesaid, as to whether the bank authorities are competent to earmark Rs.50 lakhs towards the dues of the petitioners/employees cannot be examined in this petition. The petitioners have come up earlier in W.P.Nos.32224 and 32225 of 2014, questioning the earlier e-auction notice dated 8.11.2014 and the sale notice dated 22.11.2014. A Division Bench of this Court, while dismissing those petitions as infructuous, observed that if any future sale is notified, it is open to the petitioners to adjudicate their claims in a separate proceedings, if they are having any legal right to agitate.

4. In view of the aforesaid observations made by the Division Bench of this Court and also in the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, where the secured creditor had taken steps for sale of the secured asset to recover its debts, no interference at the instance of the employees is permissible, in exercise of the jurisdiction of the High Court under Article 226 of the Constitution of India. However, it is open to the petitioners to take appropriate proceedings under the provisions of law, if so

advised, to secure their claims / dues from the second respondent. This writ petition is, accordingly, dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar
Dated:17.2.15

True Copy

Sub Assistant Registrar

To

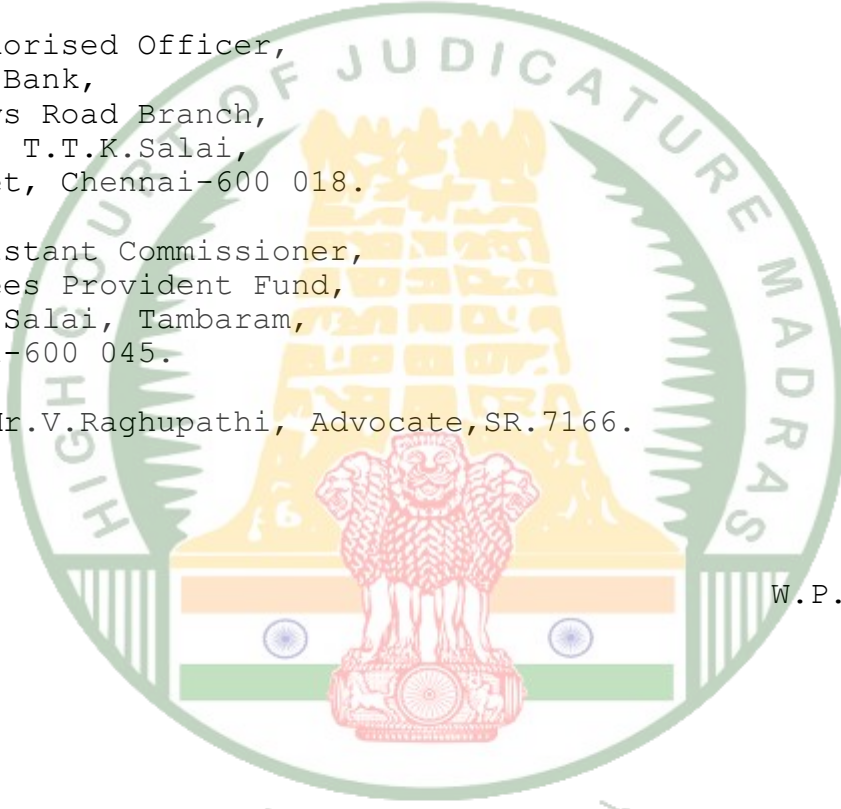
1.The Authorised Officer,
Andhra Bank,
Mowbrays Road Branch,
No.265, T.T.K.Salai,
Alwarpet, Chennai-600 018.

2.The Assistant Commissioner,
Employees Provident Fund,
Rajaji Salai, Tambaram,
Chennai-600 045.

+1 cc to Mr.V.Raghupathi, Advocate, SR.7166.

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W.P. No.3232 of 2015

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is the Indian national flag (saffron, white, and green horizontal stripes) with the Ashoka Chakra in the center. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the central image. At the bottom, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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