

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.36768 of 2015

1 M. Ravindran, Proprietor
Astra Dairy Farms
22, 47th Street, 9th Avenue
Ashok Nagar, Chennai 600 083
2 K.P. Vanaja
Vs. Petitioners

The Authorised Officer
Indian Overseas Bank
Hi Tech Agro Branch, Indian Overseas Bank,
E Sakthi Towers I, III Floor
766 Anna Salai
Chennai 600 002 Respondent

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondent bank not to take any coercive action against the petitioners in pursuance of the respondent impugned notice dated 26.10.2015 under Section 13(2) of the SARFAESI Act, 2002 without following the due process of law, as contemplated under the SARFAESI Act, 2002.

For petitioners : Mr. P. Sidharthan

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

The first petitioner who has availed loan from the respondent bank and the second petitioner, who is the first petitioner's wife and guarantor in respect of the said loan, have come up with this writ petition seeking a direction forbearing the respondent bank from taking any coercive action against them in pursuance of the notice dated 26 October 2015 issued by the respondent bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act"), without following the due process of law, as contemplated under the SARFAESI Act.

2 At the threshold, it is pertinent to point out that issuance of notice under Section 13(2) of the SARFAESI Act is the first step of proceedings initiated by a secured creditor, pursuant to which, a borrower is required to deposit the defaulted amount. In the event, the amount is not deposited, certain other steps are required to be taken by the secured creditor.

3 In the case on hand, even according to the learned counsel for the petitioners, after the notice issued under Section 13(2) of the SARFAESI Act, the respondent bank has not proceeded as yet.

Thus, we have no incertitude in holding that this writ petition is premature warranting no interference at this stage. Accordingly, this writ petition which is devoid of any merit, stands dismissed. Costs made easy. Connected Miscellaneous Petition is closed.

sd/
ASSISTANT REGISTRAR (CS-VI)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

cad

To

1. The Authorized Officer,
IOB, Hi-Tech Agro Branch,
I.O.B.E.Sakthi Towers I,
III Floor, 766 Annasalai, Chennai.

+1 CC to MR.P. Sidharthan Advocate. SR.NO. 62563

+1 CC to MR.B.Benjamin Advocate. SR.NO. 63024

W.P. No.36768 of 2015

CO-RV

JD 27/11/2015