

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.12667 of 2016

Rathna Stores Private Ltd.
represented by its Director
S. Siva Sundar
Siva Complex
79 Usman Road
T. Nagar, Chennai 600 017

..... Petitioner

Vs.

M/s. UCO Bank
represented by its Chief Manager
Mid Corporate Branch
67 Burkit Road, T. Nagar
Chennai 600 017

..... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent not to take any further action pursuant to the e-auction sale notice under Section 13(4) of the SARFAESI Act dated 15.02.2016 for a period of four months, so as to enable the petitioner to close the entire loan account in the respondent bank.

For petitioner Mr. Kumarpal R. Chopra

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This writ petition is filed seeking a writ of mandamus directing the first respondent not to take any further action, pursuant to the e-auction sale notice dated 15 February 2016, for a period of four months, so as to enable the petitioner to close the entire loan account in the respondent bank.

2 The petitioner company availed cash credit facility of Rs.60 lakhs and term loan of Rs.4 crores from the respondent bank. On the ground that the petitioner company committed default in repayment of the same, its account was classified by the respondent bank as a Non Performing Asset. Following such classification, demand notice dated 20 April 2015 under Section 13(2) of the SARFAESI Act was issued and symbolic possession of the secured assets came to be taken by the respondent bank by issuance of notice dated 09 July 2015 under Section 13(4), *ibid*. Pursuant thereto, seemingly, not much effective steps were taken by the petitioner. Eventually, the respondent bank has issued e-auction sale notice dated 15 February 2016, bringing the secured assets for sale, fixing the date of e-auction on 23 March 2016. Feeling aggrieved, the petitioner has come up with the instant writ petition seeking the aforestated relief.

3 It is a well settled principle of law that a person, being aggrieved by any action or measure taken under Section 13 (4) of the SARFAESI Act, is competent and entitled to prefer an appeal under Section 17, *ibid*, before the Debts Recovery Tribunal. Admittedly, as aforestated, demand notice dated 20 April 2015 was issued under Section 13(2) of the SARFAESI Act and possession notice dated 09 July 2015 was issued under Section 13(4), *ibid*. Since no steps have seemingly been taken by the petitioner pursuant thereto, the respondent bank has issued the e-auction sale notice dated 15 February 2016.

4 In view of the aforestated factual matrix and the settled principle of law, at this stage, we are not inclined to interfere with the matter. If the petitioner feels that further steps, pursuant to the e-auction sale notice, should not be taken by the bank for some time, the petitioner is at liberty to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act, seeking an appropriate direction to the bank, raising appropriate contentions available under the provisions of law, if so advised and this writ petition, under Article 226 of the Constitution of India, cannot be entertained.

Accordingly, this writ petition stands dismissed with the above observation. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

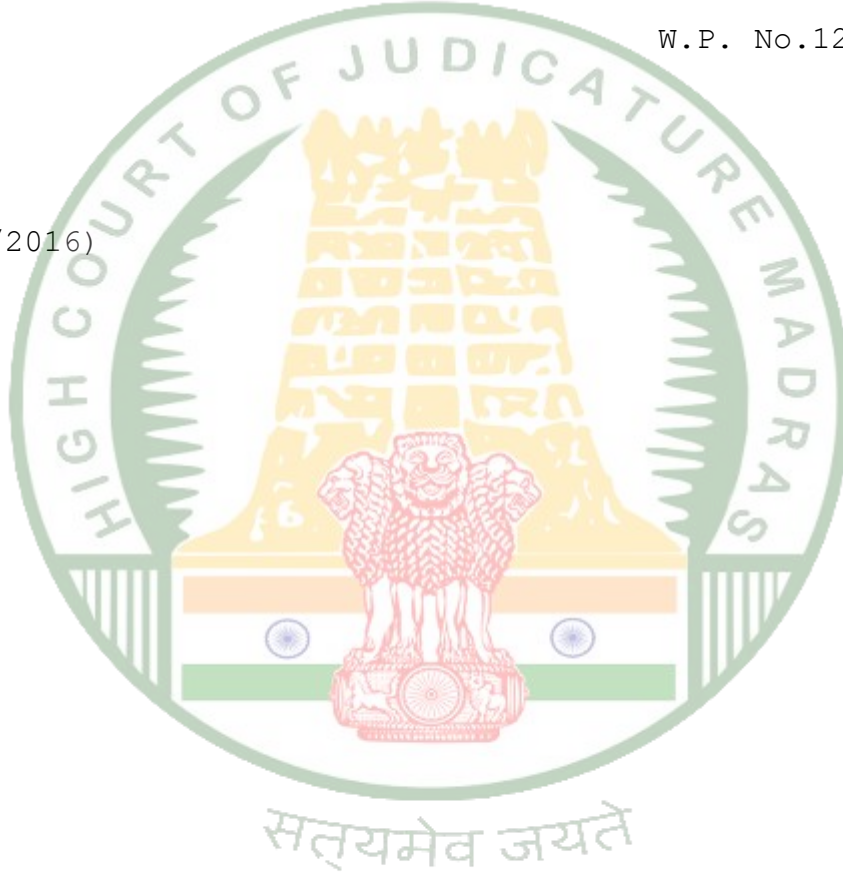
To

The Chief Manager,
UCO Bank,
Mid Corporation Branch,
67 Burkit Road,
T. Nagar, Chennai 600 017.

+1cc to Mr.Kumarpal R.Chopra, Advocate Sr.21431

W.P. No.12667 of 2016

sv(CO)
srg(27/04/2016)



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