

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2016

CORAM:

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

W.P. Nos.1307 and 1308 of 2016 and
W.M.P. Nos.1073 to 1076 of 2016

S.K. Sheik Abdullah
Proprietor, M/s. S.K.S. Tex
at 65(1), Periyathottam Main Road
Kangayam Cross Road
Tirupur 641 604

Petitioner in WP No.1307 of 2016

Sameena Banu
Proprietor, Adam Avva Tex
W/o S.K. Sheik Abdullah
at 65(1), Periyathottam Main Road
Kangayam Cross Road
Tirupur 641 604

Petitioner in WP No.1308 of 2016

Vs.

1 The Authorised Officer
Corporation Bank
No.15, Ganga Nagar I Street
Avinashi Road
Tirupur 641 602

2 The Manager
SME Branch, Corporation Bank
No.15, Ganga Nagar I Street
Avinashi Road
Tirupur 641 602

RR 1 & 2 in both WPs

3 New India Assurance Company Ltd.
represented by its Manager
Divisional Office 721 200
Kumaran Shopping Complex
First Floor, Kumaran Road
Tirupur 641 601

R3 in WP No.1307 of 2016

Prayer in W.P. No.1307 of 2016: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records pertaining to conducting the e-auction schedule to be held on 30.01.2016 or any other subsequent dates pertaining to the E-Auction notice dated 29.12.2015 published in the Hindu English Daily, Coimbatore Edition on 30.12.2015 issued by the first respondent in respect of the petition mentioned property bearing Door 65(1), Periyathottam Main Road, Kangeyam Cross Road, comprised in S.F. No.238/1, T.S. No.1186/1/17/6, Tiruppur 641 604 and quash the same and consequentially, forbear the first respondent from conducting the auction scheduled to be held on 30.01.2015 or any other subsequent dates and further forbear the first respondent from in any manner initiating any further proceedings under the SARFAESI Act, 2002, in respect of the petition mentioned property bearing Door 65(1), Periyathottam Main Road, Kangayam Cross Road, comprised in S.F. No.238/1, T.S. No.1186/1/17/6, Tiruppur 641 604, till the disposal of C.C. No.349 of 2013, pending on the file of the National Consumer Disputes Redressal Commission, New Delhi.

Prayer in W.P. No.1308 of 2016: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records pertaining to conducting the E-Auction scheduled to be held on 30.01.2016 or any other subsequent dates pertaining to the E-Auction notice dated 29.12.2015 published in the Hindu English daily, Coimbatore Edition on 30.12.2015 issued by the first respondent in respect of the petition mentioned property bearing Door Nos.9/53A and 9/53B, Serangadu III Street, Serangadu South, Nallur Village, comprised in S.F. No.681/3A, Tiruppur Taluk, Tiruppur - 641 604 and quash the same and consequentially, forbear the first respondent from conducting the auction scheduled to be held on 30.01.2015 or any other subsequent dates.

For petitioner in
both the WPs Mr. R. Abdul Mubeen

सत्यमेव जयते
COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Calling in question, the correctness of the demand notice dated 07 June 2012 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act") and also the possession notice dated 22 October 2013 issued by the respondent bank under Section 13(4) of the SARFAEI Act, the petitioner in W.P. No.1307 of 2016 filed a SARAFESI Application being S.A. No.207 of 2013 before the Debts Recovery Tribunal, Coimbatore. During currency of the said application, seemingly, steps were initiated by the secured creditor, viz., the respondent bank, to secure its money by issuance of e-auction notices dated 29 December 2015. The

petitioners have come up with the instant writ petitions, questioning the legality of the said e-auction notices and also pointing out that they have suffered a gargantuan loss due to the unprecedented flood in the nearby Noyyal river on the night of 06 November 2011, which was not taken cognizance of either by the respondent bank or the Debts Recovery Tribunal, Coimbatore.

2 Be that as it may, once the dispute qua recovery of money is under consideration before the statutory authority, we are afraid that there is no reason to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. This very issue as to whether the impugned e-auction notices are properly issued or whether the relevant facts are considered or not, may be raised before the concerned authority. In such view of the matter, we are not disposed to interfere with the e-auction notices impugned herein.

Resultantly, the writ petitions, being bereft of any merit, stand dismissed. Costs made easy. Connected W.M.Ps. are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cad

To

1 The Authorised Officer
Corporation Bank
No.15, Ganga Nagar I Street
Avinashi Road, Tirupur 641 602

2 The Manager
SME Branch, Corporation Bank
No.15, Ganga Nagar I Street
Avinashi Road, Tirupur 641 602

3 The Manager
New India Assurance Company Ltd.
Divisional Office 721 200
Kumaran Shopping Complex
First Floor, Kumaran Road, Tirupur 641 601

2 ccs to Mr.R. Abdul Mubeen, Advocate, Sr. 2472, 2473

W.P. Nos.1307 and 1308 of 2016

KSJ (CO)
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