

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.13097 of 2016
and
W.M.P.No.11464 of 2016

Purushotham M.Anand .. Petitioner

Vs.

1.The Presiding Officer,
Debt Recovery Tribunal III,
Chennai.

2.M/s.Vijaya Bank,
Hosur Branch, Hosur,
Tamil Nadu.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorari to call for the records of the first respondent dated 17.03.2016 in S.A.No.63/2016 and to quash the same.

For Petitioner ... Mr.S.Venkatesan

For Respondents .. Mr.E.Om Prakash
for M/s.Ramalingam Associates for R2
R1 - Tribunal

ORDER

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

With the consent of the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent, the writ petition is taken up for final disposal.

2.Assailing the order of the first respondent dated 17 March 2016 made in S.A.No.63 of 2016, the petitioner has come up with the instant writ petition.

3.The brief facts are that the petitioner availed loan to the tune of Rs.1,50,00,000/- by mortgaging the property and as per the sanction letter dated 15 November 2012, the petitioner has to repay the loan in 36 equal monthly instalments and thereafter, he can convert the same as V-rent loan. The petitioner was also given one year holiday period for repayment of the loan. Pursuant to the request made by the petitioner, the second respondent sanctioned additional loan to the tune of Rs.1,35,00,000/-. Despite the request made by the petitioner, the second respondent issued reminders and in the reminder letter dated 07 May 2015, the overdue amount was stated as Rs.79,79,517/-. Further, the second respondent issued a notice under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act'). Thereafter, the second respondent issued a possession notice dated 02 January 2016 under Rule 8(1) of the Act, against which, the petitioner preferred an appeal under Section 17(1) of the Act before the Debts Recovery Tribunal - III, Chennai (for short 'the Tribunal') in S.A.No.63/2016.

4.Considering the appeal filed by the petitioner in S.A.No.63 of 2016, the Tribunal, by order dated 08 February 2016, granted interim stay and relevant portion of the order reads as under:

"Heard both sides. In the circumstances pleaded, interim stay of all further proceedings pursuant to the Possession Notice dated 02.01.2016 is granted subject to the condition of applicant depositing a sum of Rs.35,00,000/- to the credit of loan account on or before 15.03.2016. In the event the applicant fails to comply with the above condition, the interim stay granted shall stand automatically vacated and the respondent bank will be entitled to proceed further in accordance to law."

5.Subsequently, on 17 March 2016, it was reported that the conditional order of interim stay granted on 08 February 2016 is not complied with. Thus, the interim stay granted earlier stood vacated with liberty to the second respondent Bank to proceed further in accordance with law. Impugning the said order, the instant writ petition is filed.

6.Learned counsel appearing for the petitioner submits that on account of financial difficulties, the entire amount could not be deposited. However, a sum of Rs.10 lakhs was paid on 14 March 2016. The petitioner was required to deposit a total sum of Rs.35 lakhs on or before 17 March 2016 and as such, the order could not be complied with in its entirety.

7.In response to our notice, learned counsel appearing for the second respondent Bank fairly submits that the petitioner may be given further time of four weeks to make entire deposit.

8.Considering the fair suggestion made by the learned counsel appearing for the second respondent Bank, we grant four weeks from today to the petitioner to deposit the remaining amount on or before 12 May 2016. The order dated 8th February 2016 rendered in S.A.No.63 of 2016 by the Tribunal shall continue to operate. In default, the order dated 17 March 2016 shall stand revived.

9.Having regard to the facts situation, the Tribunal is directed to dispose of the appeal in S.A.No.63 of 2016 as expeditiously as possible.

10.With the aforestated directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

mmi

To

The Presiding Officer,
Debt Recovery Tribunal III,
Chennai.

2 ccs to M/s. Ramalingam And Associates, Sr. 22980
1 cc to Mr.S. Venkatesan, Advocate, Sr. 23074

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