

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.6.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.16191 of 2016

M/s. ACHME Knit Wears
No.21-A, Navithar Thottam
Thennampalayam Extension
Tirupur 641 604
rep. by its Partner A.K.R.Senthilvel. ... Petitioner

Vs.

1. The Presiding Officer
Debts Recovery Tribunal
Coimbatore.
2. The Authorised Officer
State Bank of India
SME Branch
54, 1st Floor, Uthukulli Road
Tirupur 641 601.
3. S.V.Sasirekha ... Respondents

Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records relating to the order passed by the first respondent dated 19.4.2016 made in I.A.No.761 of 2016 in S.A.No.99 of 2014 and quash the same and consequently, direct the second respondent bank to accept the amount of Rs.3,46,15,000/- deposited before the first respondent for redemption of the property and to release the agricultural property in Tirupur Registration District, Tirupur oint 2 Sub Registration District, Tirupur Taluk, Nallur Village, Perichipalayam Area S.F.No.735/1 and 735/2, Old T.S.Ward "O", P.Ac.2.70 of land and issue "No Dues Certificate" to the petitioner and consequently, calculate interest at the rate of 9% instead of 16.75% and refund the excess amount paid within a time frame.

For Petitioner : Mr.Silambannan, S.C.
For M/s. Kaavya Silambanan
For Respondent-2: Mr.E.Omprakash
For M/s. Ramalingam & Associates

O R D E R
(Made by Huluvadi G.Ramesh,J)

The petitioner has come up with the above writ petition challenging the order of the Tribunal dated 19.4.2016 and to redeem the property by accepting the outstanding amount.

2. Heard Mr.S.Silambannan, learned senior counsel for the petitioner and Mr.E.Omprakash, learned counsel for the second respondent.

3. The petitioner partnership is involved in the export of garments. The third respondent is one of the partner of the petitioner firm. In 2007, the petitioner firm availed financial assistance from the second respondent and gave the agricultural property of the partner as security. The second respondent declared the petitioner's account as a Non Performing Asset on 17.01.2014 and also issued demand notice under Section 13(2) of the SARFAESI Act and issued possession notice under Section 13 (4) of the Act on 21.4.2014. Therefore, the petitioner challenged the same in S.A.No.99 of 2014 and obtained stay of the e-auction proposed in the sale notice dated 24.5.2014, in I.A.No.662 of 2014. Pursuant to the fresh sale notice dated 01.02.2016, the petitioner filed I.A.No.483 of 2016 for stay of e-auction and I.A.No.761 of 2016 to redeem the property and remitted 25% of the outstanding amount on 08.3.2016. But, the second respondent refused to receive the amount and sought time till 10.3.2016. On 10.3.2016, the second respondent conducted auction and only one bidder, who participated, paid the Earnest Money Deposit and the confirmation of sale was stayed. The petitioner filed an application for redemption by paying the depositing the entire amount. However, on 19.4.2016, the Tribunal declined to hear the matter due to unwarranted remarks made against it and referred the matter to Debts Recovery Appellate Tribunal and to transfer the matter to any other Debts Recovery Tribunal, but extended the interim order till 24.5.2016. Hence, the petitioner has come up with the above writ petition.

4. In the facts and circumstances of the case, the petitioner seeks transfer of the matter from the Debts Recovery Tribunal, Coimbatore to the Debts Recovery Tribunal I, Chennai. Taking note of the fact that the petitioner had deposited the

entire amount as demanded in the sale notice dated 01.02.2016, this Court is of the view that the matter should be transferred to the Debts Recovery Tribunal I, Chennai.

5. In view of the above, S.A.No.99 of 2014, along with connected I.As. and the impleading application filed by the auction purchaser, is withdrawn from the file of the Debts Recovery Tribunal, Coimbatore, and transferred to the Debts Recovery Tribunal I, Chennai, within a period of 15 days from the date of receipt of a copy of this order. The Debts Recovery Tribunal I, Chennai, shall list the matter on 04.7.2016 and thereafter, pass orders, after issuing notice to the auction purchaser sought to be impleaded and after hearing all the parties, within a period of three months thereafter.

The writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, WMP Nos.13970 and 13971 of 2016 are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Presiding Officer
Debts Recovery Tribunal
Coimbatore.

2.The Debt Recovery Tribunal I, Chennai

+1 cc to M/s.Kaavya Silambannan Advocate sr.32630

सत्यमेव जयते W.P.No.16191 of 2016.

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