

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:

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

W.P. No.16524 of 2016 and W.M.P. Nos.14280 and 14281 of 2016

Saphire Business Solutions Private Ltd.
represented by its Director
R. Lakshmi Narasimha Murthy
No.62, III Street, Abiramapuram
Chennai 600 018

Petitioner

vs.

1 The Authorised Officer
Dena Bank
Chennai Zonal Office
No.32, Venkatesan Street
T. Nagar, Chennai 600 017

2 The Manager
Dena Bank
Mount Road Branch
G.P. Road, Chennai 600 002

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records relating to the order dated 01.04.2016 passed by the Debts Recovery Tribunal, Madurai in I.A. No.752 of 2016 in S.A. No.439 of 2015, quash the same and consequently, direct the respondents not to proceed against the secured assets.

For petitioner Mr. P. Rajalingam

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel for the petitioner, this writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed calling in question the justifiability of the order dated 01 April 2016 passed by the Debts Recovery Tribunal, Madurai (for brevity "the Tribunal") in I.A. No.752 of 2016 in S.A. No.439 of 2015 and for a direction to the respondents not to proceed against the secured assets.

3 The facts in a nutshell, leading to the filing of the instant writ petition are that in 2012, the petitioner availed a loan of Rs.50 lakhs from the respondent bank by offering its vacant land as collateral security. Due to default on its part in repayment of the said loan, the respondent bank issued demand notice dated 19 August 2014 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act") followed by possession notice dated 03 October 2015 issued under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. Challenging the said possession notice, the petitioner preferred a SARFAESI Application in S.A. No.439 of 2015. However, subsequently, by filing I.A. No.2595 of 2015, the petitioner sought amendment of relief by adding to challenge the auction sale notice dated 27 November 2015 also, which was allowed. The petitioner further filed I.A. No.2596 of 2015 seeking stay of all further proceedings, pursuant to the auction sale notice. The Tribunal, by order dated 18 December 2015, granted liberty to the respondent bank to proceed with the sale, subject to the conditions that the respondent bank shall not confirm the sale and shall pay a sum of Rs.6,12,500/- before the respondent bank on or before 18 January 2016 as first instalment and a further sum of Rs.6,12,500/- on or before 18 February 2016 as second instalment. It was also made clear by the Tribunal that in default, the said order of injunction would stand vacated automatically. Pursuant to the said order, the petitioner paid the first instalment of Rs.6,12,500/-. However, qua payment of second instalment, the petitioner, seeking extension of time, filed I.A. No.511 of 2016, wherein, the Tribunal extended time till 04 March 2016. After making the payment of a sum of Rs.5,12,500/-, when the petitioner sought further extension of time for payment of the balance sum, the Tribunal, by order dated 18 March 2016, dismissed I.A. No.511 of 2016 and closed I.A. No.2596 of 2015. After the dismissal of I.A. No.511 of 2016, the respondent bank issued another sale notice dated 19 March 2016, fixing the date of auction on 04 April 2016. Thereagainst, the petitioner preferred an application in I.A. No.752 of 2016, wherein, the Tribunal restrained the respondent bank from confirming the sale till 02 June 2016, subject to payment of Rs.4,75,000/- by the petitioner on or before 02 May 2016 as first instalment and another sum of Rs.4,75,000/- on or before 01 June 2016 as second instalment. Challenging the said order passed by the Tribunal and further seeking a direction to the respondents not to proceed with the secured assets, the petitioner has come up with the instant writ petition.

4 We have heard the learned counsel for the petitioner and perused the pleadings and documents appended thereto.

5 When the matter is pending consideration before the Tribunal, we are not inclined to delve into the merits of the case, at this stage. The condition of payment of the amount in two instalments, being quite reasonable, we are not inclined to interfere with the impugned order passed by the Tribunal. However, keeping in view, the date of payment of the first instalment, which is due on 02 May 2016, we extend the time for payment of the first instalment to be payable on or before 15 May 2016 and the second instalment shall remain payable on or before 01 June 2016.

With the aforesaid modification, this writ petition stands disposed of. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1 The Authorised Officer
Dena Bank, Chennai Zonal Office
No.32, Venkatesan Street
T. Nagar, Chennai 600 017

2 The Manager
Dena Bank, Mount Road Branch
G.P. Road, Chennai 600 002

+1CC TO MR.P.RAJALINGAM, ADVOCATE SR.27234

सत्यमेव जयते

W.P. No.16524 of 2016

LRS[CO]
SRG 06/05/2016

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