

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21/7/2016

C O R A M

The Honourable Mr.Justice HULUVADI G.RAMESH
and

The Honourable Mr.Justice M.V.MURALIDARAN

Writ Petition No.18413 of 2016

ICICI Bank Ltd
rep. By its Secretary
Registered Office at
Landmark
Race Course Circle
Vadodara 390 007.

Also at

NBCC Place
Pragati Vihar
Bhishma Pitamah Marg
New Delhi 110 003.

...Petitioner

Vs.

1. M/s.Tulip Data Centre Private Limited
(through its Authorized Representative
Lt.Col.H.S.Bedi)
Having its Registered Office at
No.162 (P) 163, 164 (P), 165 (P)
EDIP Area, Phase II
Whitefield, Bangalore 560 066.
2. M/s.SADA IT Park Private Limited
(through its Authorized Representative
Lt.Col.H.S.Bedi)
Having its Registered Office at
No.162 (P) 163, 164 (P), 165 (P)
EDIP Area, Phase II
Whitefield, Bangalore 560 066.
3. IDFC Bank Limited
2nd Floor, Capital Courts
OLOP, Palme Marg
Mudirka, New Delhi 110 067.

4. The Registrar

Debts Recovery Appellate Tribunal
Chennai 600 008.

..Respondents

Prayer: Petition filed Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the Hon'ble DRAT, Chennai in M.A.(SA) No.53 of 2015 and quash the impugned order dated 30/3/2016 and further grant an interim protective order restraining the third respondent from taking any further action against the property at Plot No.162 (P), 163, 164 (P) and 165 (P) of EPIP Industrial Area, situated in Survey No.7 part & 8 part of Kundalhalli Village, K.R.Pura Hobli and Bangalore East Taluka, under SARFAESI Act.

For Appellant : Mr.V.T.Gopalan
Senior Counsel
for Mr.OM Prakash
for M/s.Ramalingam Associates

For Respondents : Mr.R.Mohan
for Mr.Kushal Gupta for R.1
Dr.P.Vasudevan
for Mr.Kushal Gupta for R.2.
Mr.T.K.Bhaskar for R.3.
Tribunal - R.4.

O R D E R

(Order of the Court was made by HULUVADI G.RAMESH,J)

Heard Mr.V.T.Gopalan, learned Senior Counsel, assisted by Mr.Om Prakash for M/s.Ramalingam Associates for the petitioner, Mr.R.Mohan for Mr.Kushal Gupta for the first respondent, Dr.P.Vasudevan for Mr.Kushal Gupta for the second respondent and Mr.P.S.Raman, learned Senior Counsel for Mr.T.K.Bhaskar for the third respondent.

2. The writ petition has been filed seeking for the issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order dated 30/3/2016, issued by the fourth respondent and grant an interim protective order restraining the third respondent from taking any further action against the property at Plot No.162 (P), 163, 164 (P) and 165 (P) of EPIP Industrial Area, situated in Survey No.7 part & 8 part of Kundalhalli Village, K.R.Pura Hobli and Bangalore East Taluka, under SARFAESI Act.

3. The petitioner is a Banking Company incorporated under the Companies Act, 1956. The first respondent herein had availed the credit facilities from the petitioner at their New Delhi branch. It appears that such credit facilities were extended without any collateral security.

4. On a careful perusal of the records, it could be seen that vide order, dated 2nd June 2016, this Court has directed the parties to maintain status-quo.

5. The authorised representative of the borrowers, viz., 1 and 2 is present before this Court, today.

6. Mr.V.T.Gopalan, assisted by Mr.Om Prakash for M/s.Ramalingam Associates, learned counsel appearing for ICICI Bank Ltd., would submit that ICICI Bank Ltd., has moved a case to DRET, Delhi in O.A.No.235 of 2015.

7. In view of the above submission made by the learned counsel, this Court is of the considered opinion that the petitioner can very well urge the matter before the Appellate Tribunal, with regard to the disposal of some of the properties, with the third respondent and now, the petitioner, having obtained an order of status-quo for some reasonable time, could not make any arrangements and hence the interim order cannot be continued.

8. The writ petition is disposed of. However, it is open to the petitioner to approach the Debt Recovery Appellate Tribunal, Allahabad, for any further orders, within a period of two weeks, from the date of receipt of a copy of this order. On such approach, the Debt Recovery Appellate Tribunal, shall consider all the aspects and so far as the secured and unsecured creditors are concerned, it shall be decided by the Debt Recovery Appellate Tribunal, subject to the nature of the guarantee extended by the borrower. However, Mr.R.Mohan for Mr.Kushal Gupta, learned counsel who appeared for Mr.Bedi, who borrowed the amount from the third respondent as well as from the petitioner Bank, submitted that he would work out the same for one time settlement and further submitted that one of the properties had been sold by the petitioner for 22 crores which was worth more than Rs.50 crores. This could be taken note of at the time of disposal of the appeal by the Debt Recovery Appellate Tribunal. All the contentions are left open to be urged by the authorities before the Debt Recovery Appellate Tribunal. No costs. Consequently, the connected Miscellaneous

Petition No.16114 of 2016 is closed.
mvs

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Registrar

Debts Recovery Appellate Tribunal
Chennai 600 008.

+ 1 cc to Mr.T.K.Bhaskar, Advocate Sr 41748

+ 2 ccs to M/s.Ramalingam & Associates, Advocate Sr 41382

+ 1 cc to Mr.R.Mohan, Advocate Sr 41377

KR/8/8/16

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