

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

C.R.P.Nos.1091 and 1092 of 2016
and
C.M.P.Nos.6016 and 6017 of 2016

C.R.P.No.1091 of 2016 :

1. M/s.Global Trading Impex (India) Private Limited,
rep by its Director Mr.V.Janarthana Guptha
No.5, First Floor, 50A, Salem Road,
Namakkal-637 001.
 2. V.Dhandayuthapani
 3. V.Janarthana Guptha
 4. D.Geetharani
- ... Petitioners

Vs.

1. The Authorised Officer,
State Bank of India,
Stressed Assets Management Branch,
"Red Cross Buildings" 32, Montieth Road,
Egmore, Chennai-600 008.
 2. State Bank of India,
rep by its Assistant General Manager,
Commercial Branch,
232, NSC Bose Road,
Chennai-600 001.
- ... Respondents

C.R.P.No.1092 of 2016 :

1. M/s.Prithiyangara Imports (Namakkal) Private Limited,
rep by its Director Mr.V.Janarthana Guptha,
171, Co-operative Colony, Mohanur Road,
Namakkal District-637 001.
 2. V.Dhandayuthapani
 3. V.Janarthana Guptha
 4. D.Geetharani
 5. C.Ananth
 6. J.Geetha
- ... Petitioners

Vs.

1. The Authorised Officer,
State Bank of India,
Stressed Assets Management Branch,
"Red Cross Buildings" 32, Montieth Road,
Egmore, Chennai-600 008.

2. State Bank of India,
rep by its Assistant General Manager,
Commercial Branch, Salem (Mid Corporate Group),
Chinnayyan Towers,
120/2 & 120/3, Cherry Road,
Salem-636 007.

... Respondents

C.R.P.No.1091 of 2016 is preferred under Article 227 of the Constitution of India against the impugned order dated 7.3.2016 made in I.A.No.464 of 2016 in S.A.No.82 of 2016 by the Debts Recovery Tribunal, Coimbatore (i/c of Debts Recovery Tribunal, Madurai).

C.R.P.No.1092 of 2016 is preferred under Article 227 of the Constitution of India against the impugned order dated 7.3.2016 made in I.A.No.466 of 2016 in S.A.No.83 of 2016 by the Debts Recovery Tribunal, Coimbatore (i/c of Debts Recovery Tribunal, Madurai).

For Appellants : Mr.N.L.Rajah in both C.R.Ps.

For Respondents : Mr.Suresh
for M/s.Shivakumar & Suresh
for RR1 and 2 in both C.R.Ps.

COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsels for the parties, both civil revision petitions are taken up for final disposal.

2. The instant civil revision petitions are directed against the order dated 7th March, 2016 passed in I.A.No.464 of 2016 in S.A.No.82 of 2016 and in I.A.Nos.466 of 2016 in S.A.No.83 of 2016 respectively, by the Debts Recovery Tribunal, Coimbatore.

3. The Debts Recovery Tribunal, Coimbatore in an application, being I.A.No.464 of 2016, seeking stay of further proceedings in pursuance of sale notice dated 22nd January, 2016, which was the subject matter of securitisation application filed

by the petitioners herein, granted ad-interim injunction, not to confirm the sale till 10th May, 2016 subject to payment of Rs.3,75,00,000/- with the respondent Bank directly on or before 7th April, 2016 as first instalment and the other instalment of the same amount on or before 9th May, 2016 and fixed the matter for further hearing on 10th May, 2016. It was also stated that in the event of failure to pay even a single instalment, the ad-interim injunction granted not to confirm the sale would stand vacated automatically. Similarly, in the application being I.A.No.466 of 2016 in S.A.No.83 of 2016 also, ad-interim injunction was granted, but subject to payment of Rs.6,00,00,000/- in each instalment.

4. The petitioners in C.R.P.No.1091 of 2016 were duly served with the demand notice dated 4th January, 2014 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act"), wherein the total outstanding amount indicated was Rs.23,31,14,051/-. Thereafter, a notice under Section 13(4) of the SARFAESI Act, taking symbolic possession was issued on 1st August, 2014. It appears that after a period of seven months, the petitioners made a One Time Settlement proposal, which was initially approved by the Bank. On account of not honouring the proposal, the sale notice was issued on 22nd January 2016, proposing to sell the secured asset by way of public e-auction to be held on 7th March, 2016. It appears that the sale had already taken place. However, the confirmation of the sale was stayed subject to payment of the aforestated amount by the petitioners.

5. Likewise in C.R.P.No.1092 of 2016, the demand notice under Section 13(2) of the SARFAESI Act was issued on 27th June, 2014, wherein the total outstanding amount indicated was Rs.26,06,46,362.84. Thereafter, a notice under Section 13(4) of the SARFAESI Act, taking symbolic possession was issued on 23rd September, 2014. It appears that after a period of five months, the petitioners made a One Time Settlement proposal, which was initially approved by the Bank. On account of not honouring the proposal, the sale notice was issued on 22nd January, 2016, proposing to sell the secured asset by way of public e-auction to be held on 7th March, 2016. It appears that the sale had already taken place. However, the confirmation of the sale was stayed subject to payment of the aforestated amount by the petitioners.

6. Having regard to the total outstanding amount, we are not inclined to delve into the merits of the case at this stage when the dispute is pending consideration before the Debts Recovery Tribunal, Coimbatore. The condition of payment of the

amount in instalments is quite reasonable having regard to the outstanding amount. Thus, we are not inclined to interfere with the impugned orders. However, keeping in view, the date of payment of the first instalment, which is due on 7th April, 2016, we extend the time for payment of the first instalment on or before 15th April, 2016 and the second instalment shall remain payable on or before 9th May, 2016.

7. With the aforestated modification, these civil revision petitions stand disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

vvk

Sub Assistant Registrar

To

1. The Authorised Officer,
State Bank of India,
Stressed Assets Management Branch,
"Red Cross Buildings" 32, Montieth Road,
Egmore, Chennai-600 008.
2. The Assistant General Manager,
State Bank of India,
Commercial Branch,
232, NSC Bose Road, Chennai-600 001.
3. The Assistant General Manager,
State Bank of India,
Commercial Branch, Salem (Mid Corporate Group),
Chinnayyan Towers, 120/2 & 120/3, Cherry Road,
Salem-636 007.
4. The Debts Recovery Tribunal,
Coimbatore.
5. The Debts Recovery Tribunal,
Madurai.

+2cc's to Mr.Arun Anbumani, Advocate, S.R.Nos.22067 & 22065

+1cc to M/s.Shivakumar & Suresh, Advocate, S.R.No.21471

C.R.P.Nos.1091 and 1092 of 2016

SKV(CO)

CA(15/04/2016)