

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

C.R.P. (PD) No.963 of 2016 and C.M.P. No.5390 of 2016

1 Coopers Concept Foundation Pvt. Ltd.
38, Rameswaram Road
T. Nagar
Chennai 600 017
represented by its Chairman
P.V. Sathyanarayanan

2 P.V. Sathyanarayanan

3 P.V. Janardhanam

Petitioners

vs.

The Authorised Officer
Indian Overseas Bank
Anna Nagar East
1-28, First Avenue
Chennai 600 102

Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India
challenging the order dated 17.03.2016 passed by the Hon'ble Presiding Officer,
D.R.T.-II, Chennai in S.I.A. No.779 of 2015 in S.A. No.129 of 2015.

For petitioners

Mr.Ar.L. Sundaresan, Sr. Counsel
for M/s. S. Anuradha Balaji

For respondent

Mr. S. Vinod for Mr. K.R. Mahesh

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ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. S. Vinod, learned counsel representing Mr. K.R. Mahesh, learned Standing Counsel for the respondent bank, accepts notice for the respondent bank. With consent, this Civil Revision Petition is taken up for final disposal.

2 This Civil Revision Petition is filed calling in question the justifiability of the order dated 17 March 2016 passed by the Debts Recovery Tribunal-II, Chennai (for brevity "the Tribunal") in S.I.A. No.779 of 2015 in S.A. No.129 of 2015.

3 In the SARFAESI Application, being S.A. No.129 of 2015 preferred by the petitioners, the Tribunal granted stay on 12 November 2015, subject to payment of 15% of the due amount on or before 10 December 2015. 15% of the total outstanding due amount works out to Rs.84,00,000/-.

4 Since the entire amount of Rs.84,00,000/- could not be paid by the petitioners by 10 December 2015, as ordered by the Tribunal, the Tribunal, by order dated 11 December 2015, vacated the stay granted on 12 November 2015. Seeking to recall the order dated 11 December 2015, by which, stay granted on 12 November 2015 was vacated and to extend the said conditional order of stay, the petitioners filed SARFAESI Interlocutory Application being S.I.A. No.779 of 2015 in S.A. No.129 of 2015 before the Tribunal. The Tribunal, vide the impugned order dated 17 March 2016, dismissed the said SARFAESI Interlocutory Application, holding *inter alia* that the conditional order was not complied with. Thereagainst, the instant Civil Revision Petition is filed.

5 It is brought to the notice of this Court that a sum of Rs.40,00,000/- was paid on 11 December 2015 and balance amount of Rs.44,00,000/- was paid on 31 December 2015. Thus, since the entire amount has been paid, albeit belatedly, which was a pre-requisite for considering the SARFAESI Interlocutory Application, in the facts of the case, we are inclined to condone the delay on the part of the petitioners in making payment of Rs.84 lakhs and restore S.I.A. No.779 of 2015 in S.A. No.129 of 2015 on the file of the Tribunal and also hold that the order of stay passed by the Tribunal on 12 November 2015 stands revived.

This Civil Revision Petition stands disposed of with the above observations. No costs. Connected C.M.Ps. are closed.

(SATISH K. AGNIHOTRI, J.) (M. VENUGOPAL, J.)
28 March 2016

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Note to Office: Issue order copy by 29.03.2016

To

The Authorised Officer
 Indian Overseas Bank
 Anna Nagar East
 1-28, First Avenue
 Chennai 600 102

SATISH K. AGNIHOTRI, J.

and

M. VENUGOPAL, J.

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