

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.24544 of 2016
and WMP.No.20947 of 2016

1.Ms.B.J.Expo P.Limited
Rep. By its Directors
Having Office at
10, I floor, Adhitthanar Street
Gandhinagar,
Chennai-600 054

2.B.Jayaraman

3.J.Amsaveni

Vs

...Petitioners

1.Union of India
Rep. By Secretary to Govt.,
Ministry of Finance
Department of Banking,
Sanmadmurg
New Delhi

2.The Registrar
Debts Recovery Appellate Tribunal
Indian Bank Buildings
Wellington Plaza, Commander-in-Chief Road
New Ethiraj Salai, Egmore, Chennai-600008

3.State Bank of India
Stressed Assets Management Branch
Rep. By its Assistant General Manager
Red Cross Buildings II Floor
32, Montieth Road, Egmore,
Chennai-600 008

4.J.M.Financial Asset Reconstruction Company
Pvt. Ltd., rep. By its Director-Head Resolution
Registered Office at 7th Floor, Cnergy
Appasaheb Marathe Marg
Prabhadevi, Mumbai 400 025

..Respondents

Prayer :- Writ Petition filed praying to issue a Writ of Mandamus directing the 2nd respondent to issue appropriate directions to dispose off AIR(MA).No.560 of 2013 on the file of the Hon'ble Debts Recovery Appellate Tribunal, Chennai at an early date by the Chairperson-in-charge, Debts Recovery Appellate Tribunal, Chennai, or any other Chairperson of Debts Recovery Appellate Tribunal functioning anywhere in India.

For Petitioners:- Mr.R.Thiagarajan

For respondents:- R1- Not Ready, R2-Tribunal

Mr.M.L.Ganesh for R3 and R4

ORDER

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

Heard Mr.R.Thiagarajan, learned counsel for the petitioners and Mr.M.L.Ganesh, learned counsel appearing for respondents 3 and 4.

2. This Writ petition is filed praying to issue a direction to the 2nd respondent to dispose off AIR(MA).No.560 of 2013 by the Debts Recovery Appellate Tribunal.

3. The Petitioners are borrowers, who have availed financial assistance from State Bank of India, 3rd respondent and the loan account had become NPA. Hence, the Bank initiated SARFAESI proceedings to recover the huge outstanding loan amount from the Writ Petitioners. Demand Notice under Section 13(2) of the SARFAESI Act was issued on the Petitioners on 13.01.2011 directing them to pay the outstanding loan amount of Rs.54,26,76,391.65/-. The Petitioners, however, filed reply, questioning the contractual rate of interest. Thereafter, the Authorised Officer of the Bank took possession of the mortgaged properties and made paper publication, the schedule mentioned property and also filed O.A.No.101 of 2011 before the Debts Recovery Tribunal-III, Chennai, under Section 19(1) of the Recovery of Debts due to Banks and Financial Institution Act,

for a direction to the Petitioners herein to pay (i) Rs.17,55,10,538.26, together with interest (ii) Rs.4,84,61,140.68/- together with interest, (iii) Rs.10,88,01,655.98/- together with interest, (iv) Rs.23,22,38,093.61 together with interest and for further other reliefs. In the said O.A., a compromise decree was passed on 14.08.2012, wherein in Annexure-I, Schedule of Property including Hypothecation and Equitable Mortgage find place. Subsequently, the Writ Petitioners herein filed M.A.Nos.124 and 125 of 2013 in O.A.No.101 of 2011, seeking to enlarge and extend the time for payment of the amounts due to the Bank till 30.06.2013 and to substitute certain documents. However, the said applications were dismissed. Aggrieved by the same, the Writ Petitioners, filed Appeal under Section 20 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, seeking to cancel the OTS Proposal issued by the Bank. In view of the non-functioning of the Debts Recovery Appellate Tribunal, the Writ Petitioners approached this court with the prayer mentioned above.

4. After elaborate arguments, the learned counsel for the Petitioners submits that as already projected by the Petitioners before the second respondent-Bank as well before this court, the deposit of FDR's valued Rs.31.80 Crores, could be withdrawn by the Bank.

5. We have heard the learned counsel appearing for respondents 3 and 4 on the above submission.

6. Thus, taking note of all the facts and circumstances of the case and also considering the submission made by the learned counsel for the Petitioners, we are inclined to pass the following order:-

The respondent-Bank is at liberty to withdraw the Fixed Deposits for a total amount of Rs.31.80 crores and in this regard, the petitioners shall facilitate the Bank to encash the amount directly. However, for the remaining outstanding due, the counsel for the petitioners sought time to make payments. Therefore, it is for the respondent-Bank, to calculate the outstanding balance due amount and issue a notice to the Writ Petitioners, so as to enable the Petitioners to arrive at a compromise/settlement and to give a quietus to the loan transaction issue.

7. The Writ Petitioners are directed to come forward with a proposal towards making payment of the balance amount due to the Bank within 15 days from the date of receipt of a copy of this order. Till then, the respondent-Bank, shall not take any coercive steps against the Petitioners.

8. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

nvsri

To

1. The Secretary to Govt.,
Union of India
Ministry of Finance
Department of Banking
Sanmadmurg
New Delhi
 2. The Registrar
Debts Recovery Appellate Tribunal
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Chennai-600 008
- + 1 CC to M/s.Ganesh, Advocate sr no 40907
+ 1 CC to M/s.R.Thiagarajan, Advocate SR NO 40977

W.P.No.24544 of 2016

MPI [CO]

GP/23.7.