

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.8.2016

CORAM

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

W.P.No.25722 of 2016
and

W.M.P.Nos.22071 and 22072 of 2016

R.K.Rajkumar
Proprietor
M/s.Koghima Garments
14 Bashyam Street
Vetri Nagar Chennai-600 082. Petitioner

Versus

- 1 The Zonal Joint Director
Department of Industries and Commerce
Zonal Office T.V.K.Estate
Guindy Chennai-600 032.
- 2 The Authorized Officer
State Bank of Hyderabad
Regional Office
No.4 Santhome High Road
Mylapore Chennai-600 004.
- 3 State Bank of Hyderabad
Rep. by its Branch Manager/
Authorized Officer
56/12 SRP Koil Street
Opp. to Bus Depot
TVK Nagar Chennai-600 082. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records of the respondents particularly that the Notice dated 5.5.2016 under Sec.13(2) of the SARFAESI Act issued by the 3rd respondent in respect of the Loan Account No.62334570673 (TL) and Account No.62334532093 (C.C) and the Notice dated 4.6.2016 vide F/ROCHN/GRVI/620 under Sec.13(2) of the SARFAESI Act issued by the 2nd respondent in respect of the Loan Account No.62334570673 (TL) and Account No.62334532093 (C.C) and quash the same as illegal and null and void besides without jurisdiction and consequently, to direct respondents 2 and 3 to restore the business of the petitioner under the name and style

of Koghima Garments as it was prior to 21.3.2016 at their own costs besides, restore all such movables besides, cash in hand clandestinely removed by the third respondent without adopting to due process of law.

For petitioner : Mr.J.S.Rajamohan
For RR2 and 3 : Mr.M.L.Ganesh

ORDER

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

Heard the learned counsel appearing for the parties.

2. The writ petition has been filed seeking issuance of a writ of certiorarified mandamus calling for the records of the respondents particularly that the Notice dated 5.5.2016 under Sec.13(2) of the SARFAESI Act issued by the 3rd respondent in respect of the Loan Account No.62334570673 (TL) and Account No.62334532093 (C.C) and the Notice dated 4.6.2016 vide F/ROCHN/GRVI/620 under Sec.13(2) of the SARFAESI Act issued by the 2nd respondent in respect of the Loan Account No.62334570673 (TL) and Account No.62334532093 (C.C) and quash the same as illegal and null and void besides without jurisdiction and consequently, to direct respondents 2 and 3 to restore the business of the petitioner under the name and style of Koghima Garments as it was prior to 21.3.2016 at their own costs besides, restore all such movables besides, cash in hand clandestinely removed by the third respondent without adopting to due process of law.

3. It appears that the hypothecated assets of the petitioner were subjected to SARFAESI proceedings for the default committed by him in repayment of the financial assistance rendered by the respondent-bank. As against the notice of auction issued under section 13(2) of the SARFAESI Act, the petitioner approached this court by filing C.S.No.244 of 2016, however, it was withdrawn with liberty to approach the Debts Recovery Tribunal. Whiles, it appears that when the petitioner approached the Debts Recovery Tribunal III, Chennai, the appeal seems to have been returned.

4. Therefore, considering the facts and circumstances of the case, the petitioner is directed to approach the Debts Recovery Tribunal III, Chennai within fifteen days from the date of receipt of copy of this order and raise all their contentions before the DRT, and till a decision is taken by the DRT, the parties are directed to maintain status quo as on today. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Zonal Joint Director
Department of Industries and Commerce
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56/12 SRP Koil Street
Opp. to Bus Depot
TVK Nagar Chennai-600 082.

+1cc to M/s. M.L. Ganesh, Advocate, S.R.No.47130

+2ccs to Mr.T.S. Rajamohan, Advocate, S.R.No.47495

SAI (CO)

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W.P.No.25722 of 2016

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