

W.M.P.No.5388 of 2016 in W.P.No.2720 of 2015

T.S.SIVAGNANAM, J.

This Miscellaneous Petition is filed to clarify the order, dated 17.12.2015, passed in W.P.No.2720 of 2015.

2. The Writ Petition was filed by the petitioner bank, challenging the notice issued by the first respondent, dated 11.11.2014, and to forbear the first respondent from interfering with the banks rights to proceed against the assets of second and third respondents under the provisions of SARFAESI Act,2002.

3. After hearing the learned counsel for the parties, the Writ Petition was disposed of, by order, dated 17.12.2015, and the operative portion of the said order reads as follows :

"7. In the light of the above discussion, the Writ Petition is disposed of by directing the first respondent to consider the petitioner's representation dated 30.12.2014, hold a discussion among themselves and take a pragmatic decision in the matter, so as to be beneficial to both. The above direction shall be complied with within a period of eight weeks from the date of receipt of a copy of this order. Until then, the property should not be sold by the petitioner bank in Public Auction. No costs. Consequently, connected miscellaneous petition is closed."

4. Learned counsel for the petitioner has submitted that two out of three properties have already been sold in public auction and the sale proceeds, which are

realised, have been retained in sundry deposit account; and, so far as the third property is concerned, because of the order of attachment, the petitioner bank is not able to proceed.

5. Learned counsel for the first respondent organisation has submitted that the order of attachment is in force in respect of all the three properties.

6. This Court, while disposing of the writ petition, was of the opinion that a pragmatic decision has to be taken in the matter, which should be beneficial both to the petitioner bank and the respondent organisation. This observation was made bearing in mind that the respondent organisation has been established for protecting the interests of the employees. Nevertheless, the plight of the innocent employees, whose legitimate and lawful claims have been defeated by the unscrupulous management, cannot be brushed aside. Therefore, this Court thought it fit to issue such a direction. However, the bank takes a stand that the first respondent has not issued any notice to the petitioner.

7. It is to be pointed out that the petitioner approached this Court and filed the writ petition, challenging the notice issued by the authority, and, therefore, it would have been appropriate for the Chief Manager, to approach the first respondent, without harping upon formalities. Therefore, in order to afford an opportunity to enable the parties to put their minds together for an amicable settlement in the matter, the first respondent is directed to issue a notice to the Chief Manager of the petitioner bank, calling upon him to appear for a hearing, along with

all records. During the course of meeting, the petitioner bank and the first respondent shall sort out the issue and find a solution to the same. The amount, which is lying in sundry deposit, shall remain as such and shall not be appropriated or distributed and the property, which is yet to be brought for public auction, shall not be brought for auction, till the matter is resolved.

8. Miscellaneous Petition is disposed of accordingly.

dixit

29-02-2016

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