

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.06.2016

CORAM

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

W.P. NO. 3838 OF 2016

AND

W.M.P. NO. 3210 OF 2016

1. Shashi Kumar Nair
 2. Leena Shashi Kumar
 3. Sabari Alloys & Metals Pvt. Ltd.
Rep. By its Director Shashi Kumar
No.A-3, Sipcot Industrial Complex
Gummidipoondi 601 201.
 4. Sabari Properties Pvt. Ltd.
Rep. By its Director, Mr.Shashi Kumar
Trade Centre, 2nd Floor
No.114 & 115, Wallajah Road
Chennai 600 002.
 5. M/s.Eskay Enterprises
rep. By its Partner Mr.Shashi Kumar
S. No.88/2A, Ernavoor Village
Express Highway, Ennore
Chennai 600 097.
 6. Sabari Infra Pvt. Ltd.
Rep. By its Director Mr.Shashi Kumar
No.5-C/D/E, 5th Floor, Gee Gee Emerald
18/32, Valluvar Kottam High Road
Chennai 600 034.
 7. Saga Steel Pvt. Ltd.
Rep. By its Director Mr.Shashi Kumar
Murugamalai Nagar
Periyakulam, Theni 625 605.
- .. Petitioners

- Vs -

1. State Bank of India
Stressed Assets Management Branch
rep. By its Branch Manager
"Red Cross Buildings"
No.32, Monteith Road, Chennai 600 008.

2. Sabari Exim Pvt. Ltd.
(in provisional liquidation)
rep. By the Official Liquidator
Madras High Court
2nd Floor, Corporate Bhawan
No.29, Rajaji Salai, Chennai 600001
Regd. Office Office at
2nd Floor, Trade Centre
No.117, Wallahaj Road, Chennai - 2.
3. Sree Kumar
4. Shobana Nair
5. S.L.S.Exports Ltd.
Rep. By its Director Mr.Sree Kumar
F-117, Pioneer Towers
No.1, Marine Drive, Cochin 682 031. ... Respondents

Writ Petition filed Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records culminating in the One Time Settlement Sanction Orders dated 8.4.2015 and consequent One Time Settlement Cancellation Orders dated 7.11.2015 and 19.11.2015 passed by the 1st respondent and quash the same and direct the 1st respondent to give effect to the One Time Settlement as set out in proposal dated 20.03.2015 accepted via letter dated 27.3.2015.

For Petitioner : Mr. Roshan Balasubramanian

For Respondents: M/s.Ramalingam Associates for R-1
M/s. Damithalakshmi Deenadayalan for RR-3 to 5

ORDER
(DELIVERED BY HULUVADI G.RAMESH, J.)

This petition has been filed by the petitioner to direct the bank to give effect to the One Time Settlement as set out in proposal dated 20.03.2015 accepted via letter dated 27.3.2015 by quashing the One Time Settlement Cancellation Orders dated 7.11.2015 and 19.11.2015 passed by the 1st respondent.

2. The case of the petitioner is that the 2nd respondent availed various credit facilities from the 1st respondent for which the petitioner also stood as a guarantor. However, due to certain unforeseen factors affecting the business, payment of monthly instalment was irregular, resulting in default. Therefore, to offset the same, the properties, which were given as collateral security were substituted with properties, which had far higher value to enable the 1st respondent bank to release the title deeds pertaining to the property held by them as collateral security, so as to enable the defaulters to sell the same in open market and pay back the loan amount to the 1st respondent bank. Accordingly, a proposal was made in this regard by the petitioner with the 1st respondent bank ,

wherein the bank, on payment of amounts, would release title deeds of property equivalent to the amount paid by the petitioner so as to enable the petitioner to sell the same in open market and pay off the outstanding amount to the bank. Accordingly, an one time settlement was reached between the 1st respondent bank and the petitioner herein. Accordingly, based on the above settlement proposal, the petitioner paid the amount initially fixed by the bank so that the bank could release the property to enable the petitioner to sell the same and make good the payment to the bank. However, inspite of the said payment, the bank did not release the property and also passed cancellation orders cancelling the one time settlement and, therefore, the petitioner has approached this Court by filing the present petition challenging the said cancellation.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the 1st respondent bank and perused the documents available in the typed set.

4. On the above pleading of the petitioner, learned counsel appearing for the 1st respondent bank submits that already one year has lapsed from the date of the earlier proposal, but the petitioner had not acted upon the same and, therefore, the 1st respondent bank is unable to act upon the said one time settlement made earlier in favour of the principal borrower and the guarantor. However, learned counsel appearing for the 1st respondent bank submits that they are willing to consider a fresh proposal for one time settlement on the petitioner appearing before the Debts Recovery Tribunal and submitting a proposal to the extent that he personally guarantees payment of the entire amount instead of bringing in the other guarantors and obtains a decree from the Debts Recovery Tribunal in that regard.

5. In the above circumstances, this writ petition is disposed of with a direction to the petitioner to approach the Debts Recovery Tribunal and the Debts Recovery Tribunal is directed to pass orders in accordance with law after hearing the petitioner and the bank so that proposal for settlement could be expedited in the matter. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1. The Branch Manager
State Bank of India
Stressed Assets Management Branch
"Red Cross Buildings"
No.32, Monteith Road, Chennai 600 008.

2. Sabari Exim Pvt. Ltd.
(in provisional liquidation)
rep. By the Official Liquidator
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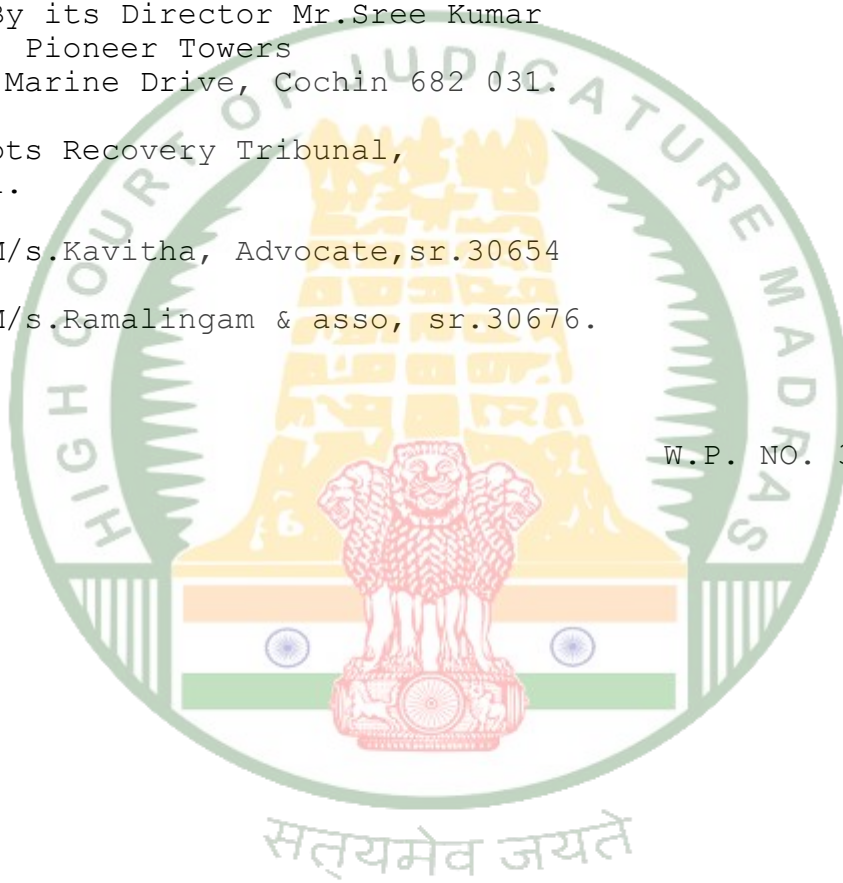
4. The Debts Recovery Tribunal,
Chennai.

+1 cc to M/s.Kavitha, Advocate,sr.30654

+1 cc to M/s.Ramalingam & asso, sr.30676.

nr(co)
krd 21/7

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