

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.4056 of 2016 and W.M.P. No.3392 of 2016

Gugan Paper Mills Private Ltd.
represented by its Executive Director
K.R. Gunaseelan
having office at SF No.2/4, Ayyampalayam Village
Palani

Petitioner

vs.

- 1 IDBI Bank Ltd
represented by its Deputy General Manager
"Excellence", IV Floor
No.104, Race Course Road
Coimbatore 641 018
- 2 Central Bank of India
Mid Corporate Branch
represented by its Assistant General Manager
14-15, Variety Hall Road
Coimbatore 641 001
- 3 Indian Bank
Tiruchengode Branch
represented by its Assistant General Manager
TGN Complex
West Car Street
Tiruchengode 637 211

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records of the first respondent in the impugned notice dated 26.11.2015 and to quash the same, being in derogation of the provisions of the said SARFAESI Act, the classification of NPA being contrary to the Reserve Bank of India guidelines, arbitrary exercise and failure to consider Corporate Debt Restructuring (CDR) in terms of the guidelines of Reserve Bank of India, by forbearing the respondents from in any manner proceeding under the provisions of the SARFAESI Act, pending reference before BIFR registered in Case No.130/2015.

For petitioner

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

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Questioning the correctness of the demand notice dated 26 November 2015 issued by the first respondent bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (for short "the SARFAESI Act") and also for a direction forbearing the respondents, from in any manner, proceeding under the provisions of the SARFAESI Act, pending reference in Case No.130 of 2015 before the Board for Industrial and Financial Reconstruction, New Delhi, the petitioner has preferred the instant writ petition.

2 The first respondent Bank, exercising its power under Section 13(2) of the SARFAESI Act, issued demand notice dated 26 November, 2015, calling upon the petitioner to discharge in full, its liabilities, within a period of 60 days from the date of the said notice. The petitioner has informed the first respondent bank, under Section 13(3-A) of the SARFAESI Act, about the pendency of the proceedings before the Board for Industrial and Financial Reconstruction vide communication dated 23 January 2016. On receipt of the abovesaid information, it is found that no further step has been initiated by the first respondent bank and as such, at this stage, the instant writ petition being premature, is not maintainable. However, liberty is reserved to the petitioner to make a further representation under the provisions of Section 13(3-A) of the SARFAESI Act, if so advised. Needless to state that the first respondent bank is under an obligation to consider the said representation and pass a reasoned order, before taking further action thereafter.

The writ petition stands dismissed with the above observations. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

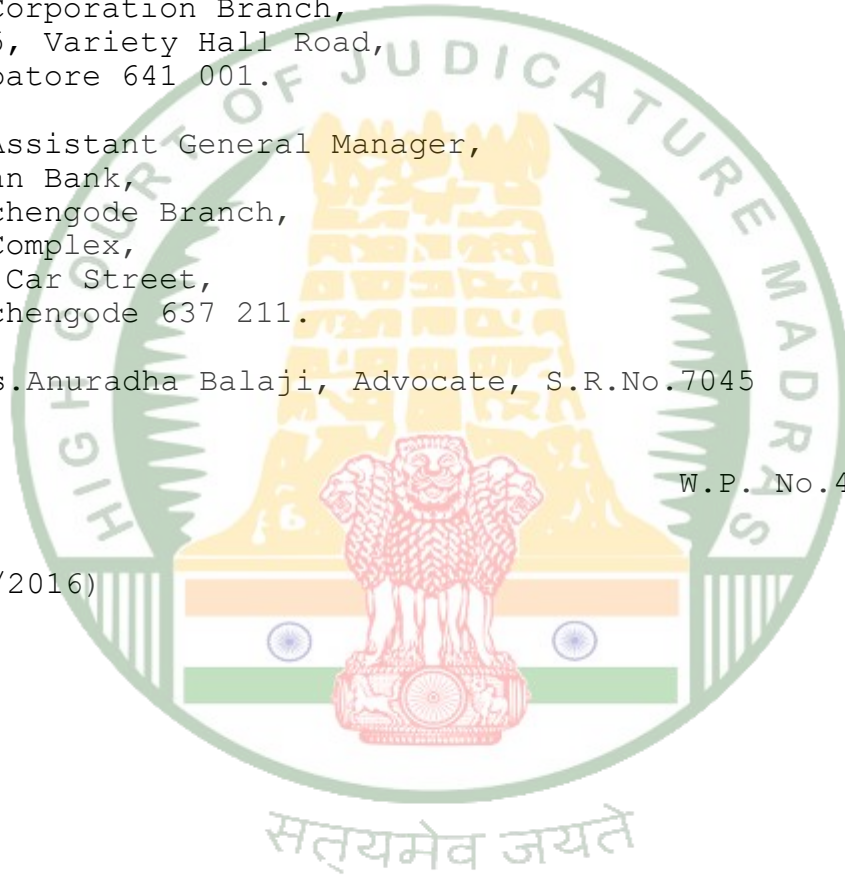
To

- 1 The Deputy General Manager,
IDBI Bank Ltd,
"Excellence", IV Floor,
No.104, Race Course Road,
Coimbatore 641 018.
- 2 The Assistant General Manager,
Central Bank of India,
Mid Corporation Branch,
14-15, Variety Hall Road,
Coimbatore 641 001.
- 3 The Assistant General Manager,
Indian Bank,
Tiruchengode Branch,
TGN Complex,
West Car Street,
Tiruchengode 637 211.

+1cc to Ms.Anuradha Balaji, Advocate, S.R.No.7045

W.P. No.4056 of 2016

gj(CO)
srg(16/02/2016)



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