

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P.No.6996 of 2016
and
W.M.P.No.6209 of 2016

M/s.BKR Hotels & Resorts Pvt. Ltd.,
rep by its Managing Director,
Mr.D.R.Balakrishna Raja
Old No.6, New No.9,
Venkatesan Street,
T.Nagar, Chennai-600 017. .. Petitioner

Vs.

- 1.The General Manager /Zonal Manager,
Zonal Office - Chennai North,
Indian Bank,
No.55, Ethiraj Salai,
Chennai-600 008.
- 2.The Deputy General Manager /Authorised Officer,
Indian Bank, Harbour Branch,
No.66, Rajaji Salai,
Chennai-600 001.
- 3.The Presiding Officer,
Debts Recovery Tribunal,
Coimbatore. ..Respondents

The writ petition is preferred under Article 226 of the Constitution of India, praying for the issue of a writ of certiorarified mandamus to call for the records of the third respondent herein culminating in the order in I.A.No.1718 of 2015 in S.A.No.212 of 2015 on the file of the third respondent herein dated 1.2.2016, to quash the same insofar as the condition imposed therein directing the petitioner to pay a total sum of Rs.7.6 Crores in two installments being Rs.3.8 Crores each on or before 1.3.2016 and 1.4.2016 respectively and consequently to direct the third respondent herein to hear S.A.No.212 of 2015.

For Petitioner : Mr.P.S.Raman, SC
for Mr.M.Santhanaraman

For Respondents: Mr.Jayesh B.Dolia for RR1 and 2

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant writ petition is directed against the proceedings dated 1st February, 2016 of the Debts Recovery Tribunal, Coimbatore made in I.A.No.1718 of 2015 in S.A.No.212 of 2015.

2 The petitioner, engaged in a hotel business, obtained financial assistance from the respondent Bank. In default to make regular installments, as scheduled, a demand notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "SARFAESI Act") was issued on 1st July, 2014, whereunder the total outstanding amount was indicated as Rs.29,57,75,363.65. It appears that further action was initiated and possession notice dated 6th September, 2014 was issued thereafter. Feeling aggrieved, the petitioner preferred SARFAESI application in S.A.No.212 of 2015, wherein one interim application being I.A.No.1718 of 2015 was filed, seeking stay of further proceedings in pursuance of the possession notice dated 6th September, 2014. The Debts Recovery Tribunal, recording the offer of Rs.30 Crores made by the petitioner as One Time Settlement, passed a conditional interim order against the Bank till 4th April, 2016 subject to payment of Rs.3,80,00,000/- directly before the Bank on or before 1st March, 2016 as first installments and the other sum of Rs.3,80,00,000/- directly before the Bank on or before 1st April, 2016 as second installment. Being dissatisfied, the petitioner is before us, finding deficiency in the order.

3 According to the learned Senior Counsel appearing for the petitioner, the Bank had agreed to accept 10% of the OTS offer of Rs.30 Crores, i.e., Rs.3 Crores as a pre-condition. Thus, the direction to deposit Rs.7,60,00,000/- in two installments by the Tribunal is excessive and unjustified.

4 We have examined the facts of the case and also heard Mr.Jayesh B.Dolia, learned counsel appearing for the Bank.

5 The total outstanding amount on the date of issuance of notice under Section 13(2) of the SARFAESI Act, i.e., 1st July, 2014, was Rs.29,57,75,363.65. It is not the case of the petitioner that some amount has been deposited. According to the learned counsel appearing for the Bank, now the amount has gone up much more than Rs.30 Crores. Having regard to the total quantum of amount recoverable from the borrower / petitioner,

the direction to pay Rs.7,60,00,000/- in two installments is neither exorbitant nor excessive.

6 We do not find any infirmity, illegality or irregularity in the order of the Tribunal sought to be impugned in this petition. Resultantly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The General Manager /Zonal Manager,
Zonal Office - Chennai North,
Indian Bank,
No.55, Ethiraj Salai,
Chennai-600 008.
- 2.The Deputy General Manager /Authorised Officer,
Indian Bank, Harbour Branch,
No.66, Rajaji Salai,
Chennai-600 001.
- 3.The Presiding Officer,
Debts Recovery Tribunal,
Coimbatore.

+1 cc to M/s.Aiyar & Dolia, Advocates, sr.11890
+1 cc to M/s.G.Santhanaraman, Advocate, sr.11990

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