

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M.VENUGOPAL

W.P. No.7026 of 2016

and

W.M.P.Nos.6236 to 6238 of 2016

Susila Ammal

... Petitioner

Vs.

1.The Secretary to Government,
Union of India,
Ministry of Finance,
Jeevan Deep Building,
Parliament Street, New Delhi-1.

2.The Assistant General Manager,
Reserve Bank of India,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road,
Mumbai-400 001.

3.The Secretary to Government,
Finance Department, Secretariat,
Fort St. George, Chennai-9.

4.Kotak Mahindra Bank
Registered office
27, BKC, C 27, G Block,
Bandrakurla Complex,
Bandra (E), Mumbai
represented by its Managing Director/s

5.Authorised Officer,
M/s.Kotak Mahindra Bank Ltd.
36-38 A, Nariman Bhavan,
227, Nariman Point, Mumbai-400 002.

6.M/s.Rajarajan & Co.,
16, Whannels Road, Egmore,
Chennai-600 008.

7.N.Rajarajan

8.A.Babu Thyagarajan

.. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 4th respondent, comprising of the auction sale notice for the auction to be held on 25.02.2016 issued by the fourth respondent through paper publication dated 19.1.2016 in the New Indian Express and quash the same as illegal, arbitrary and unconstitutional.

For Petitioner : Ms.Surasika Parthasarathy
for Mr.Satish Parasaran

For Respondents: Mr.G.Rajagopalan,
Additional Solicitor General
assisted by Mr.G.C.Kumar for R-1
Mr.Ilaiarajkumar
for M/s.Ramalingam Associates
for RR4 and 5
Mrs.A.Srijayanthi, Spl. G.P. for R-3
No appearance for R-2

ORDER

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

Calling into question the auction sale notice published in the New Indian Express newspaper on 19th January, 2016 for the auction to be held on 25th February, 2016, the instant petition is filed.

2 The learned counsel appearing for the petitioner submits that pursuant to the order dated 13th October, 2015 passed by the Debts Recovery Tribunal-II, Chennai in S.A.No.92 of 2015 and I.A.Nos.545 and 546 of 2015, an appeal has been preferred before the Debt Recovery Appellate Tribunal (for short "DRAT"), Chennai, assailing the order rendered by the Debts Recovery Tribunal. The petitioner is not in a position to obtain any interim order on account of vacancy of the post of the Chairperson, DRAT. Only on 1st of every month, the Chairperson of DRAT, New Delhi comes to Chennai. In the meantime, the sale pursuant to the proposed auction may be confirmed, prejudicing the case of the petitioner.

3 Noting the difficulty faced by the petitioner, this Court passed the following order on 25th February, 2016 :

"2.The learned Additional Solicitor General appearing for the first respondent submits that two weeks' time be granted to seek instructions and inform the latest status of the appointment of Chairman of the Debt Recovery Appellate Tribunal at Chennai.

3. Having regard to the fact situation, the auction shall proceed without confirming the sale in favour of the highest bidder till the next date of hearing. Call on 09.03.2016. In the meantime, the petitioner is at liberty to deposit any amount with the Bank, if so advised."

4 The matter was thereafter taken on 9th March, 2016 and 14th March, 2016, continuing the interim order.

5 The learned Additional Solicitor General, on the basis of the instructions submits that the Department of Financial Services, Ministry of Finance has already initiated proceedings for filling up the post of the Chairperson, DRAT, Chennai as the Chairperson of DRAT, Chennai has resigned and as such, the post became vacant.

6 Having regard to all aspects of the matter, when the aim and object of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Recovery of Debts due to Banks and Financial Institutions Act, 1993 are to ensure the recovery of outstanding debt expeditiously, the vacancy of the post of Chairperson in the DRAT, Chennai is obstructing the smooth working out of the provisions of the aforesaid Acts.

7 It is informed that the Chairperson, New Delhi attends Chennai once in a month, but not regularly. The next sitting of the appellate authority is in April, 2016.

8 Having regard to the facts situation, as aforesaid, we direct the Secretary to the Government of India, Department of Financial Services, Ministry of Finance, to ensure that the Chairperson of any DRAT has a sitting at DRAT, Chennai for three days continuously once in a month till filling up of vacancy of the said post is made. It is further directed that there shall be one sitting as aforesaid in the month of March, 2016. The interim order granted earlier in this case is to continue till the first sitting of the DRAT in Chennai. The DRAT, Chennai is directed to consider the matter on its own merit and in accordance with law without there being influenced by any observation made in the matter by this court.

9 Resultantly, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vvk

To

- 1.The Secretary to Government,
Union of India,
Ministry of Finance,
Jeevan Deep Building,
Parliament Street, New Delhi-1.
- 2.The Assistant General Manager,
Reserve Bank of India,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road,
Mumbai-400 001.
- 3.The Secretary to Government,
Finance Department, Secretariat,
Fort St. George, Chennai-9.

+2ccs to Mr.Ramalingam, Advocate, S.R.No.16822

सत्यमेव जयते

W.P.No.7026 of 2016

KSJ(CO)
Eu 29.03.16

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