

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.6.2016

CORAM

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

W.P.No.8351 of 2016
and
W.M.P.No.7407 of 2016

M/s.Anandram Developers Private Limited
Rep by its Director K.Bapaiah
having its Registered Office at
New Nos.45 and 47 Old Nos.17 and 18
Arcot Road Saligramam Chennai 600 093 Petitioner

Versus

- 1 Indian Overseas Bank,
Rep by its Deputy General Manager,
Commercial & Institutional Credit Branch,
98-A Dr.Radhakrishnan Salai,
Mylapore Chennai 600 004.
- 2 The Asset Reconstruction Company India Ltd.
Rep by its Vice President,
The Ruby, 10th Floor,
29, Senapati Bapat Marg,
Dadar (West)
Mumbai 400 028.

also having its Branch Office at
Arcil Arms Office,
715 C Spencers Plaza,
79 Anna Salai,
Chennai 600 002.

..... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration declaring that the rejection of the petitioner's One Time Settlement (OTS) proposal dated 18.3.2014 by the 1st respondent by letter dated 19.3.2014 and the assignment of the petitioner's debt account to the 2nd respondent by the 1st respondent by Document No.2914/2015 dated 10.2.2015 for an amount of Rs.19,35,40,503/- is illegal and unlawful and consequently direct respondents 1 and 2 to accept the said amount as One Time

Settlement (OTS) from the petitioner in full quit and settlement of the petitioners loan account.

For petitioner : Mr.C.S.Ganesan, Party-in-person

For R1 : Mr.F.B.Benjamin George

For R2 : Mr.G.Kalyan Jhabakh for
M/s.Surana & Surana

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ petition has been filed seeking issuance of a writ of declaration declaring that the rejection of the petitioner's One Time Settlement (OTS) proposal dated 18.3.2014 by the 1st respondent by letter dated 19.3.2014 and the assignment of the petitioner's debt account to the 2nd respondent by the 1st respondent by Document No.2914/2015 dated 10.2.2015 for an amount of Rs.19,35,40,503/- is illegal and unlawful and consequently direct respondents 1 and 2 to accept the said amount as One Time Settlement (OTS) from the petitioner in full quit and settlement of the petitioners loan account.

3. The petitioner had availed a Term Loan from the first respondent to the tune of Rs.30,00,000/- and later committed default in payment and hence, the first respondent issued a demand notice dated 16.12.2009 under Section 13(2) of the SARFAESI Act and thereafter, possession notice was also issued by the first respondent on 2.1.2012. The One Time Settlement offer made by the petitioner on 18.3.2014 seems to have been rejected by the first respondent. Subsequently, the second respondent informed the petitioner by their letter dated 14.10.2014 with regard to assignment of the loan in their favour by the first respondent and the second respondent had entered into the assignment agreement with the first respondent on 10.2.2015 vide document No.2914/2015. Thereafter, the petitioner was issued with notice under section 13(2) from the second respondent. The petitioner challenges the rejection of the One Time Settlement offer made by the petitioner and the notice issued by the second respondent on 22.12.2015.

4. It appears from the submission made by the learned counsel appearing for the Bank as well as the learned counsel appearing for the Asset Reconstruction Company India Limited, more than 100 crores of rupees is pending payment by the

petitioner and in such circumstance, the order of reconstruction at the request of the bank may not be interfered.

5. Further, the possession notice is challenged before the Debts Recovery Tribunal I, Chennai in S.A.No.113 of 2012. Therefore, it is for the petitioner to go and appear in the appeal proceedings and take all the best possible defence before the Debts Recovery Tribunal and also seek for further One Time Settlement and it is for the Tribunal to consider the same and pass orders within one month from today and till one month, the status quo shall be maintained.

6. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To:

- 1 The Deputy General Manager,
Indian Overseas Bank
Commercial & Institutional Credit Branch
98-A Dr.Radhakrishnan Salai
Mylapore Chennai 600 004
- 2 The Vice President
The Asset Reconstruction Company India Ltd.
The Ruby, 10th Floor,
29, Senapati Bapat Marg,
Dadar (West)
Mumbai 400 028

also having its Branch Office at
Arcil Arms Office
715 C Spencers Plaza
79 Anna Salai Chennai 600 002

+1cc to Mr.S.Srinivas, Advocate, S.R.No.8566
+1cc to Mr.Surana & Surana, Advocate, S.R.No.36495
+1cc to Mr.F.B.Benjamin George, Advocate Sr.36075

W.P.No.8351 of 2016

nr[co]
srg 19/07/2016