

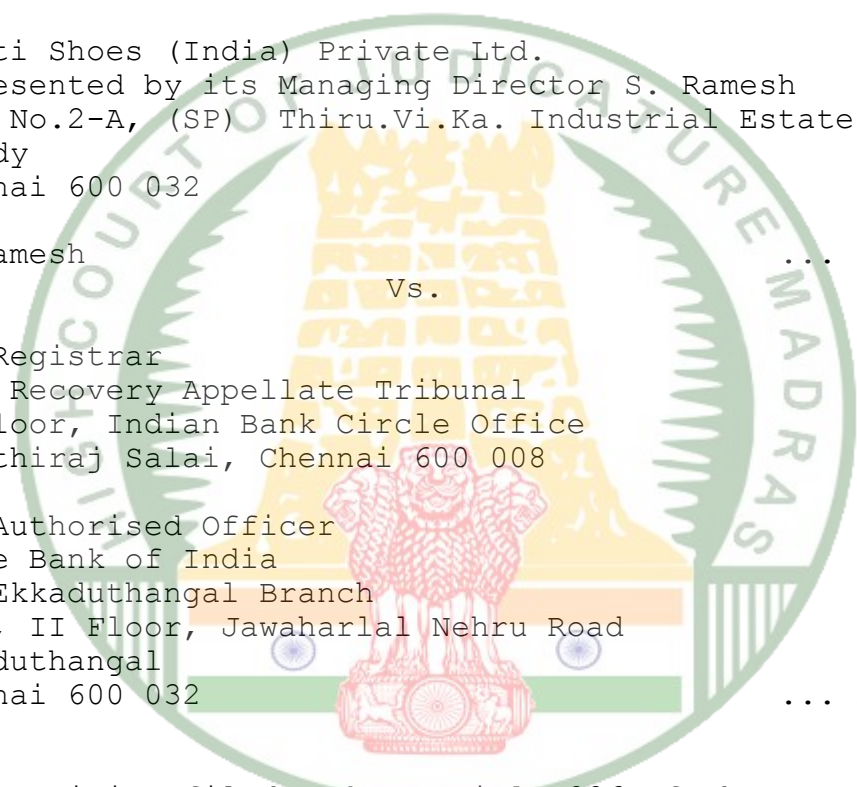
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI  
AND  
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.9849 of 2016 and W.M.P. Nos.8820 and 8821 of 2016

- 
- 1 Keerti Shoes (India) Private Ltd.  
represented by its Managing Director S. Ramesh  
Plot No.2-A, (SP) Thiru.Vi.Ka. Industrial Estate  
Guindy  
Chennai 600 032
- 2 S. Ramesh ... Petitioners
- Vs.
- 1 The Registrar  
Debt Recovery Appellate Tribunal  
IV Floor, Indian Bank Circle Office  
55 Ethiraj Salai, Chennai 600 008
- 2 The Authorised Officer  
State Bank of India  
SME Ekkaduthangal Branch  
No.5, II Floor, Jawaharlal Nehru Road  
Ekkaduthangal  
Chennai 600 032 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records pertaining to the e-auction sale notice dated 15.02.2016 issued by the second respondent through newspaper publication dated 16.02.2016 and quash the same.

For petitioners Mr. P. Jesus Moris Ravi  
For R2 Mrs. S.R. Sumathy  
For R1 Tribunel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. S.R. Sumathy, learned Standing Counsel, accepts notice for the second respondent bank. With the consent of the learned

counsel for the petitioners and the learned Standing Counsel for the second respondent bank, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed calling in question, the legality and validity of the e-auction sale notice dated 15 February 2016 issued by the second respondent bank by way of newspaper publication on 16 February 2016.

3 The learned counsel for the petitioners submits that the application in S.A. No.05 of 2015 filed by the petitioners was dismissed by the Debts Recovery Tribunal, II, Chennai (for brevity "the Tribunal") summarily by order dated 18 May 2015. Thereagainst, an appeal was preferred by the petitioners before the Debts Recovery Appellate Tribunal Chennai (for brevity "the Appellate Tribunal") in A.I.R. (SA) No.346 of 2015. On 20 August 2015, while passing orders in the waiver application in I.A. No.372 of 2015 in A.I.R. (SA) No.346 of 2015, the Appellate Tribunal, recording the presence of the learned counsel for the petitioners and filing of proof of service, called the respondent bank absent and set it ex parte. Assailing the said order, the respondent bank made an application I.A. No.766 of 2015 before the Appellate Tribunal for setting aside the ex parte order dated 20 August 2015 and hearing the matter on merits. Nonetheless, the matter could not be taken up for hearing on account of vacancy of the post of the Chairperson in the Appellate Tribunal. Thus, when matter is still under consideration before the Appellate Tribunal, on the strength of the order passed by the Tribunal, the respondent bank was not competent to proceed against the secured asset.

4 On the other hand, the learned Standing Counsel for the second respondent bank submits that though the matter is still pending consideration before the Appellate Tribunal, since the application preferred by the petitioners before the Tribunal has been dismissed, the second respondent bank is fully competent to proceed further in the matter.

5 Be that as it may, indisputably, the application preferred by the respondent bank for setting aside the ex parte order dated 20 August 2015, is still pending consideration.

6 In such an event, we are not inclined to adjudicate the dispute and make any observation on merits of the case. However, regard being had to the fact of vacancy of the post of the Chairperson of the Appellate Tribunal, we deem it fit and proper to direct that the auction sale of the secured asset proposed to be held today (i.e. 17 March 2016) shall go on, however, the sale shall not be confirmed, till the application is taken up by the Appellate Tribunal and decided on merits. It is ordered accordingly.

The writ petition stands disposed of with the above observation. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1 The Registrar,  
Debt Recovery Appellate Tribunal,  
IV Floor, Indian Bank Circle Office,  
55 Ethiraj Salai, Chennai 600 008.
- 2 The Authorised Officer,  
State Bank of India,  
SME Ekkaduthangal Branch,  
No.5, II Floor, Jawaharlal Nehru Road,  
Ekkaduthangal,  
Chennai 600 032.

+1cc to Mrs.S.R.Sumathy, Advocate, S.R.No.17036

+1cc to Mr.P.Jesus Moris Ravi, Advocate, S.R.No.16964

सत्यमेव जयते

W.P. No.9849 of 2016

skv (CO)  
srg (17/03/2016)

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