BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2016

CORAM

THE HON'BLE Mr. JUSTICE D. KRISHNAKUMAR
AND
THE HON'BLE MR. JUSTICE S.S. SUNDAR

CRP.(MD)No.213 of 2016 and
CMP(MD).Nos.8325 to 8327 of 2016 and
CMP(MD).No928 of 2016

1. M/s. AAPL Infra Private Limited,
rep. by its Managing Director A. Boaz

2. A. Boaz
3. J. Raja
4. J. Sumathi
5. P. John Madhuram Gunaraj ..Petitioners/Petitioners/ Appellants

vs.

1. The Authorised Officer,
State Bank of India,
SME Branch Madurai (00988)
No.57/1 Kamarajar Salai,
Madurai City,Madurai

2. State Bank of India,
rep. by its Branch Manager,
SME Branch, Station Road,
No.64 West Veli Street,
Madurai - 625 001 ... Respondents/ Respondents/Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 19.01.2016 passed in I.A.No.125 of 2016 in S.A.No.19 of 2016 on the file of the Debts Recovery Tribunal, Madurai in so far as it directs the petitioners to make payment of a sum of Rs.81,75,000/- each in third installments.

For Petitioners ... Mr. V. Sri Balaji

For Respondents ... Mr. J. Govindasamy

ORDER
(ORDER of the Court was made by
D. KRISHNAKUMAR, J., and S.S.SUNDAR, J.,)

This Civil Revision Petition is filed against the order passed by the Debts Recovery Tribunal, Madurai, dated 19.01.2016, made in I.A.No.125 of 2016 in S.A.No.19 of 2016, imposing condition for the grant of interim order to stay the confirmation of sale.

2. The SARFAESI Appeal before the Debts Recovery Tribunal was filed by the petitioners in this Civil Revision Petition against the auction sale in respect of 5 items of property belonging to the petitioners. The sale notice is dated 07.12.2015 and the auction is fixed on 20.01.2016. Along with the appeal, the petitioners filed an Interlocutory Application to stay all further proceedings pursuant to the sale notice dated 07.12.2015. Pending SARFAESI Appeal in S.A.No.19 of 2016, the Debts Recovery Tribunal was pleased to grant ad-interim injunction not to confirm the sale till 20.04.2016, subject to the payment of a sum of Rs.81,75,000/- to the respondent Bank on or before 19.02.2016 as first instilment and a sum of Rs.81,75,000/- as second instalment on or before 21.03.2016 and a further sum of Rs.81,75,000/-, to be paid on or before 19.04.2016 as third instalment. The Revision Petitioners, aggrieved by the condition directing them to make payments in the manner stated above have filed the above revision petition.

3. It is not in dispute that the petitioners in the Civil Revision Petition have not complied with the conditional order passed by the Tribunal. Since the Civil Revision Petition itself is filed only against the interim order imposing condition and the said condition has not been complied with, the respondent Bank has proceeded to issue with fresh notice for the sale of assets on 19.05.2016 and subsequent E-Auction sale notice dated 02.08.2016 and the auction was also conducted by the proposed respondent. It is also placed on record that the auction was conducted by the proposed third respondent and hence, the petitioners have filed an application to implead him as a party- respondent in the Civil Revision Petition.

4. It was represented before this Court that except for the first item of the property out of the five items of properties that were put to auction, there were no bidders for the other items. It is also pertinent to mention that, even the offer for the first item was only by a person who had already entered into an agreement with the revision petitioners. The petitioners submitted two proposals before the Bank and the Bank was not inclined to accept the proposals, since the revision petitioners were making the same offer which they have made when the Interlocutory Application filed in the SARFAESI Appeal in S.A.No.19 of 2016 was pending before the Debts Recovery Tribunal.

5. According to the revision petitioners, they have made an offer which is above the upset price fixed by the Bank for all the five items of the properties and incase the revision petitioners are permitted to sell the properties by private negotiation, the Bank will have no prejudice. They also submit that they have given revised proposals to the Bank. The learned counsel appearing for the Bank

reports that the Bank cannot accept the proposals, as the amount which was offered by the revision petitioners is too low.

6. Considering the fact that the sale pursuant to the sale notice dated 07.12.2015 was not materialised and the Bank has also issued a fresh sale notice dated 19.05.2016 and E-auction notice dated 02.08.2016, we find that there is no scope for entertaining this Civil Revision Petition, which arises only against an Interlocutory Application filed by the revision petitioners before the Debts Recovery Tribunal in S.A.No.19 of 2016, which was filed by the revision petitioners against the sale notice dated 07.12.2015.

7. In the above circumstances, without expressing any view on the merits of the Civil Revision Petition, we dismiss the Civil Revision Petition as infructuous, giving liberty to the petitioners to challenge the subsequent sale notice or sale before the appropriate forum and to raise all their contentions on merits. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

trp
TO,
1. The Authorised Officer,
State Bank of India,
SME Branch Madurai (00988)
No.57/1 Kamarajar Salai,
Madurai City,Madurai

2. The Branch Manager, State Bank of India,
SME Branch, Station Road,
No.64 West Veli Street,
Madurai - 625 001.

3 The Debts Recovery Tribunal, Madurai.

+1CC to M/s.VAST Law Associates, Advocate Sr.No.55929

GJM/SK/SKN/14.10.16-3p-5C

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