



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.05.2016

CORAM :
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Writ Petition (MD) No.9157 of 2016
and
W.M.P(MD)No.7290 of 2016

C.P.Jeyakumar,
Proprietor of
M/s.Jeyarani Match Industries,
No.47, Bharathiyar Street,
Sattur Taluk,
Virudhunagar District.

... Petitioner

Vs.

The Authorized Officer,
Bank of India,
Nalli Branch, Coimbatore Zone,
Asset Recovery Department,
3rd Floor, STAR House,
No.324, Oppankara Street,
Coimbatore 641 001.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the Presiding Officer (I/c) Debts Recovery Tribunal Madurai in I.A.No.329 of 2016 in S.A.No.57 of 2016 dated 06.04.2016 and quash the same in so far as imposing the condition to pay Rs.10,25,000/- to the respondent as 1st installment on or before 06.05.2016 and another Rs.10,25,000/- as 2nd installment on or before 06.06.2016 is concerned.

For Petitioner : Mr.R.Subramanian

For Respondent : Mr.Pala.Ramasamy

ORDER

(Order of the Court was made by **T.S.SIVAGNANAM,J**)

Heard Mr.R.Subramanian, learned counsel appearing for the petitioner and Mr.Pala.Ramasamy, who takes notice on behalf of the



2.The petitioner/borrower was declared as a defaulter and proceedings initiated by the respondent under the SARFAESI Act, 2002. The petitioner has challenged the proceedings so initiated by filing an application before the Debts Recovery Tribunal in S.A.No.57 of 2016. Pending disposal of the said petition, the petitioner moved a stay petition in I.A.No.329 of 2016 to stay all further proceedings pursuant to the possession notice dated 17.12.2015. The Tribunal after hearing the parties, passed an order dated 06.04.2016 granting some indulgence to the petitioner and permitting the petitioner to pay a sum of Rs.10,25,000/- as first installment on or before 06.05.2016 and another amount of Rs.10,25,000/- as second installment on or before 06.06.2016. The Tribunal also made it clear that if the petitioner fails to pay any one of the installments as ordered, the order of ad interim injunction shall stand vacated automatically and the respondent bank was at liberty to proceed against the secured assets as per law. The said order dated 06.04.2016 is impugned in this writ petition.

3.Learned counsel appearing for the petitioner vehemently contended that within a short period of time, the petitioner was declared as a defaulter without considering the factual issues and without taking note of the fact that there was a severe glut in the business and the petitioner could not make repayment and default was only temporary. It is further submitted that the order passed by the Tribunal works great prejudice to the petitioner and would cripple the industry.

4.In our view, since the order impugned is only an interim order passed in exercise of the discretion by the Tribunal the same cannot be interfered when there is no error in the exercise of discretion by the Tribunal that too in a writ petition. Therefore, the impugned order has to be upheld. However, it is always open to the petitioner to approach the respondent bank to remit the installments and if the petitioner wants additional time, it is well open to the petitioner to make a request to the bank. If the petitioner requires any clarification in the impugned order, then the petitioner has to move the Tribunal and for such reasons, the writ petition cannot be entertained. We find the impugned order is clear and it is a reasoned order and does not require any clarification.

5.With the above observation, the writ petition is disposed of.

6.After the above order was dictated, learned counsel appearing for the petitioner submitted that the time granted by the Tribunal for payment of the first installment may be extended. Heard Mr.Pala.Ramasamy, learned counsel for the respondent bank for the above said submission. Considering the above said prayer,



time granted for payment of the first installment amounting Rs.10,25,000/-is extended till 31.05.2016.No costs. Consequently, W.M.P(MD)No.7290 of 2016 is closed.

Sd/-

Assistant Registrar/
Vaction Officer

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/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

sms

To

The Authorized Officer,
Bank of India,
Nalli Branch, Coimbatore Zone,
Asset Recovery Department,
3rd Floor, STAR House,
No.324, Oppankara Street,
Coimbatore 641 001.

+1 cc to Mr.R.Subramanian, Advocate, SR No.25855

+1 cc to Mr.Pala.Ramasamy, Advocate, SR No.25861

RG.JGB-SS/SAR-III 10.05.2016 3P.4C

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