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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 5788/2015 & CM No.10411/2015 (for stay)

M/S. KUNJ FORGINGS PVT. LTD. AND ORS. ..... Petitioners

Through: Ms. Kaadmri Singh Puri & Ms. Hrishika Pandit, Advs.

Versus

STATE BANK OF TRAVENCORE AND ORS. ..... Respondents

Through: Mr. Jai Mohan, Adv. for R-1.
Mr. Sanjeev Sagar & Mr. Jasvin Dhama, Advs. for R-3.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

<u>O R D E R</u>

% 03.05.2016

1. The petition i) seeks to restrain the respondent no.1 State Bank of Travencore (SBT) from taking any coercive measures against the petitioners and its assets unless and until all joint lenders / banks who have advanced loans to the petitioners jointly come to a fair conclusion regarding the petitioners pending re-structuring proposal; and, ii) seeks a direction to the respondents SBT, Punjab National Bank (PNB) and Small Industrial Development Bank of India (SIDBI) to fairly examine the re-structuring proposal in terms of the Joint Lenders Forum (JLF) formed by the respondents in terms of Reserve Bank of India (RBI) Circular dated 26th February, 2014.

2. Notice of the petition was issued and a counter affidavit has been filed by the respondent no.1 SBT and to which a rejoinder has been filed by the petitioners.

3. None appears for the respondent no.2 PNB.

4. Though the counsel appears for respondent no.3 SIDBI but has argued without filing any counter affidavit.

5. The counsels have been heard in detail.

6. What emerges is, i) that the respondent no.1 SBT has already initiated proceedings under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 culminating in action under Section 13(4) and though auction of secured assets has also been held but has not been successful till now; ii) that the petitioners have already approached the Debt Recovery Tribunal (DRT) under Section 17 of the SARFAESI Act and which proceedings are still pending consideration; iii) the respondent no.2 PNB has also initiated proceedings under the SARFAESI Act vis-a-vis the assets of the petitioners secured with it; and, iv) the respondent no.3 SIDBI has also initiated the recovery proceedings before the DRT and winding up proceedings against the petitioners.

7. The counsel for the petitioners however relying on the judgment of the Division Bench of this Court in ***M/s Satnam Agri Products Ltd. Vs. Union of India*** 2014 SCC Online 6965 contends that the reliefs which the petitioners are seeking in this petition i.e. of directing the respondents banks to consider the re-structuring proposal of the petitioners in accordance with the RBI Guideline cannot be granted by the DRT in the Section 17 proceedings and this petition would be maintainable. She otherwise fairly admits that the challenge in this petition is not to the proceedings under the SARFAESI Act and which indeed cannot be.

8. Thus the discussion hereinafter would be confined to the aforesaid aspect only.

9. The counsel for the petitioners in this regard has drawn attention to the Circulars / Guidelines of the RBI to all scheduled commercial banks dated 26th February, 2014 at page 57 of the paper book and dated 1st July, 2014 at page 266 of the paper book and has contended that the respondent no.1 SBT could not have initiated proceedings under the SARFAESI Act inasmuch as the share of the respondent no.1 SBT in the total loans advanced to the petitioners is only 33% and the highest share is of the respondent no.2 PNB and which had not consented to the same.

10. However now as aforesaid it has emerged that respondent no.2 PNB also has initiated proceedings under the SARFAESI Act.

11. The counsel for the petitioners also admits to the same.

12. Once it is so, the question of the action of the respondent no.1 SBT being in contravention of the decision of the lead banker i.e. respondent no.2 PNB, does not arise.

13. Though the counsel for the petitioners has drawn attention to page 199 of the paper book and has contended that the same is the settlement which was arrived at but a perusal thereof shows the same to be a conditional one and being subject to the sanction from the appropriate authority.

14. The counsel for the respondent no.1 SBT has also drawn attention to the order dated 23rd April, 2015 in W.P.(C) No.7924/2014 earlier filed by the petitioners and in which the relief as claimed in this petition and which was also claimed therein by way of CM No.3283/2015 was declined. It is

the contention of the respondent no.1 SBT that this petition is not maintainable for this reason alone.

15. The counsel for the petitioners at this stage again invites attention to page 199 of the paper book and has contended that though the settlement undoubtedly was conditional and subject to the sanction of the competent authority but the petitioners have acted upon that and complied with the conditions.

16. The counsel for the respondent no.1 SBT denies that the petitioners have complied with the conditions vis-a-vis respondent no.1 SBT.

17. The counsel for the respondent no.3 SIDBI also states that the conditions vis-a-vis respondent no.3 SIDBI were also not complied with.

18. The petitioners have totally failed to establish a case for issuance of a writ or for any breach or non compliance by the respondent no.1 SBT of any binding RBI Guideline / Circular.

19. There is thus no merit in the petition.

Dismissed.

RAJIV SAHAI ENDLAW, J

MAY 03, 2016

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