

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.6212 of 2017
and
WMP Nos.6698 & 6699 of 2017

M/s.VST Spintex (India) Pvt. Ltd.,
Rep. by its Director ...Petitioner

vs.

1. The Authorized Officer,
State Bank of India,
Stressed Assets Management Branch,
1112, Raja Plaza, Avinashi Road,
Coimbatore - 641 037

2. The Asst. General Manager,
State Bank of India,
Commercial Branch,
Trichy Road, Coimbatore - 641 018.

3. M/s.CAV Cotton Mills Pvt. Ltd.,
Rep. by its Director,
No.551, Ganesapuram,
S.S.Kulam, Via. Annur,
Coimbatore - 641 107.

...Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent herein dt. 18.2.2017 bearing No.SAMB/CBE/CLO-ii/2396 and SAMB/CBE/CLO-II/2521 dt. 7.3.2017 and quash the same and direct the respondents 1 and 2 herein to forthwith restore possession of the Land, Building, Plant and Machinery of M/s.CAV Cotton Mills Private Limited, having its Mill premises at Vellapommanpatti, Trichy Road, Vadamadurai, Vedasandur Taluk, Dindigul District to the petitioner to enable it to continue running of the Mill.

For Petitioner : Mr.AR.L.Sundaresan, Sr. Counsel
for M/s.AL.Ganthimathi

For Respondents: Mr.Ilayaraja Kumar (for R1&R2
for M/s.Ramalingam Associates.
No appearance (For R3)

ORDER

(Order of the Court was delivered by S.MANIKUMAR, J)

Third party, who had entered into a conversion agreement with the borrower, 3rd respondent herein, has filed the instant writ petition, challenging the proceedings dated 18.02.2017 and prayed to quash the same. Consequently, the petitioner has sought for a direction to respondents 1 and 2, to forthwith restore possession of the Land, Building, Plant and Machinery of M/s.CAV Cotton Mills Private Limited, having its Mill premises at Vellapommanpatti, Trichy Road, Vadamadurai, Vadasandur Taluk, Dindigul District, to the petitioner to enable the petitioner to continue running of the Mill.

2. Chief Manager, State Bank of India, Coimbatore, has filed a counter affidavit opposing the prayer sought for and inter alia submitted that challenging possession notice dated 15.10.2016, issued under Section 13(4) of the SARFAESI Act, 2002, CAV Cotton Mills Private Limited, Coimbatore, the 3rd respondent / borrower, has filed S.A.No.228 of 2016, before the Debts Recovery Tribunal, Madurai and that the same is pending.

3. Mr.AR.L.Sundaresan, learned senior counsel appearing for the petitioner submitted that State Bank of India, Coimbatore, has now issued a letter dated 14.09.2017 to CAV Cotton Mills Private Limited, Coimbatore, the borrower / 3rd respondent herein, with an offer of One Time Settlement, which is extracted hereunder.

SBI/OTS/2017/1120

14.09.2017

Madam/Dear Sir,

Kind Attention: CAV Cotton Mills Pvt Ltd (Company)
Scheme for One Time Settlement of NPAs & AUCAs in
Manufacturing, Trade, Services & Agriculture Sector
(SBI OTS 2017)

Borrower/Unit Name: CAV Cotton Mills Private Ltd.

A/c.No(s):36090826273, 36099026530, 36099368679

Branch: SAMB Coimbatore (16454)

State Bank of India has come out with a scheme for One Time Settlement (OTS) of non-performing assets 2017. In this connection, we would like to advise you that your dues to the Bank are eligible for settlement under the SBI OTS 2017 on the following terms and conditions:

(i) Ledger outstanding (excluding accrued interest from the date of NPA) on 31.03.2017 :
Rs.12,86,98,928/-

(ii) Amount of OTS: Rs.9,00,89,250/-.

(iii) Application for OTS will be processed only on deposit of minimum 5% (Rs.64,34,946.0) of the Ledger outstanding as on 31.03.2017.

(iv) 20% (Rs.18017850.0) of the OTS amount will have to be deposited by you as upfront money within thirty days from the date of sanction of OTS. This would include the amount deposited by you along with the application.

(v) The balance amount can be paid within 6 months from the date of sanction of OTS (the validity period) together with interest @ MCLR + 2%, failing which the OTS sanction will be rendered infructuous.

(vi) However, no interest will be charged, if the entire OTS amount is paid within 3 months from the date of sanction.

(vii) You will be eligible for an additional incentive of 10% discount on the OTS amount, on making payment of the entire OTS amount on or before 31.12.2017.

2. Since your case is pending before Court/Lok Adalat/DRT any settlement will be subject to filing of consent term for consent decree/necessary orders from the Court/Lok Adalat/DRT, and this letter is without prejudice to the rights and contentions of the Bank in the said proceedings.

Since you have been issued notice under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, this notice is without any prejudice to our rights to take / continue actions under the Act unless a compromise is settled under the present SBI OTS 2017 / Scheme as stated above.

3. Please advise your willingness to settle the dues by 31.10.2017. Your request for settlement will be processed for acceptance or otherwise on receipt of your communication and deposit of minimum 5% of the outstanding as on 31.03.2017."

4. When the borrower has challenged, the possession notice in S.A.No.228 of 2016 on the file of Debts Recovery Tribunal, Madurai, and that the same is pending, relief sought for, in this writ petition by the third party, cannot be granted. Petitioner is permitted to work out his remedy, in the manner known to law.

5. With the above observation, the writ petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS)

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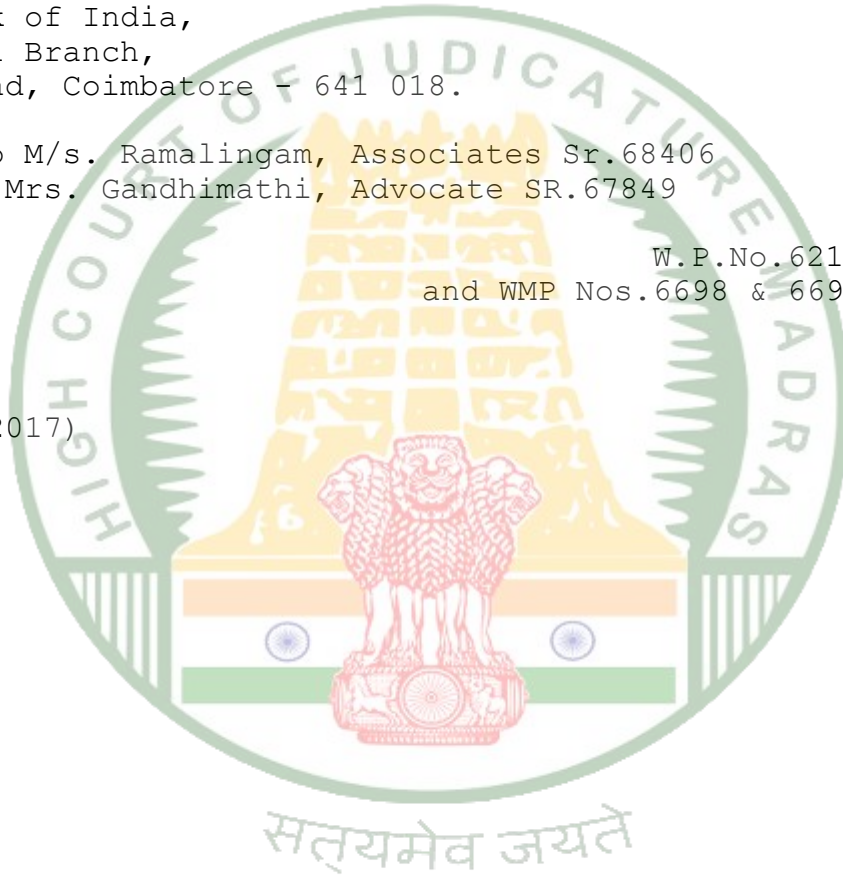
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2. The Asst. General Manager,
State Bank of India,
Commercial Branch,
Trichy Road, Coimbatore - 641 018.

+ 2 ccs to M/s. Ramalingam, Associates Sr.68406
+ 1 cc to Mrs. Gandhimathi, Advocate SR.67849

W.P.No.6212 of 2017
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CS-V
EU(10/10/2017)



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