

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/9/2017

C O R A M

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

Writ Petition No.7608 of 2017

a n d

W.M.P.No.8302 of 2017

M/s. Pavai Alloys and Steels (P) Ltd
rep. By its Managing Director

Mr.V.Kuppusamy
No.5-A, SVA Extension No.III
Thiruchengode
Namakkal District 637 211.

Petitioner

Vs

1. The Registrar
Debt Recovery Tribunal
III & IV Floor, Kalyani Towers
4/162 Madurai-Melur Road
Uthangudi
Madurai 625 017.

2. The Authorised Officer
Indian Bank
Thiruchengode Branch
TGN Complex
Anna Salai
Thiruchengodu 637 211.

Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of certiorari to call for the records pertaining to the Notice of sale under Private Treaty issued by the second respondent, dated 14/3/2017 and quash the same.

For Petitioner ... Ms.G.Jagadeeswari

For respondents ... Mr.T.Annamalai for R.2.

O R D E R

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

Proceeding challenged, in this writ petition, is extracted hereunder:-

"M/s. Pavai Alloys & Steels Pvt Ltd availed credit facilities from Indian Bank, Thiruchengode Branch, the repayment of which are secured by hypothecation of schedule mentioned assets/securities herein after referred to as "the properties". M/s. Pavai Alloys & Steels Pvt Ltd., failed to pay the outstanding dues and after the account became NPA, Demand Notice under Section 13 (2) dated 24/7/2014 was issued by the Authorised Officer calling upon M/s. Pavai Alloys & Steels Pvt Ltd others liable to the Bank to pay the amount due to the tune of Rs.35,33,66,705.94 (Rupees Thirty five crores Thirty three lakhs sixty six thousand seven hundred and hive and ninety four paise only), as on 23/7/2014, with further interest, costs, other charges and expenses thereon however M/s.Pavai Alloys & Steels Pvt Ltd., failed to make payment despite Notice dated 24/7/2014.

As M/s. Pavai Alloys & Steels Pvt Ltd failed to make payment despite demand notice, the authorised officer took possession of the schedule mentioned assets/securities on 15/10/2014 after complying with all legal formalities. The secured creditor brought the securities for sale through public auction on 4/12/2014, 2/2/2015, 16/3/2015, 2/9/2015, 30/3/2016 and 30/9/2016 which failed.

Secured Creditor/Bank is entitled to effect sale of the assets/securities taken possession under SARFAESI Act, 2002 and realise the proceeds towards outstanding balance. In accordance with the same, the undersigned/Authorised Officer intends selling the schedule mentioned securities by this Private Treaty mode, which is recognised mode of sale under the rules framed under SARFAESI Act viz., Rule 6(1) (d) of Security

Interest (Enforcement) Rules, 2002.

We hereby issue this 15 days Notice of sale under private treaty mode. We wish to inform you that the reserve price for the property is fixed at Rs.2,00,00,000/- (Rupees Two crores only) and the sale shall be concluded on 31/3/2017.

The amount due as on 13/3/2017 is Rs.48,62,35,311/- (Rupees Forty Eight Crores Sixty Two lakhs Thirty Five thousand Three Hundred and Eleven only) towards credit facilities availed with Indian Bank, Tiruchengode Branch with further interest, costs, other charges and expenses thereon.

We hereby draw your attention to the provisions of sub-section 8 of Section 13 of the amended SARFAESI Act in respect of the time available to redeem the secured assets, as provided in the said Act.

The sale is made on "AS IS WHERE IS AND IS WHAT IS" basis and without any representation and warranties on the part of the Bank relating to encumbrances, statutory liabilities etc.

*** This notice is issued without prejudice to nay other remedy available to the secured creditor.

*** This notice is issued without prejudice to any other remedy available to the secured creditor and without prejudice to the rights of the secured creditor to proceed with the proceedings presently pending before DRT/DRAT/Court and proceed with the execution of order/decreed obtained/to be obtained.

Schedule

The specific details of assets/securities which are intended to be brought to sale are enumerated.

Hypothecated assets itemwise	Detail ed Descri ption to be given	Reserve Price - Rs.20 0.00 lakhs	EMD - Rs.21.00 lakhs	Date and time of sale (e-auction mode) 31/3/2017 10.00 a.m., at Indian Bank, Tiruchengode Branch	Prior Encumbrance - Nil
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2. Record of proceeding shows that on 28/3/2017, notice has been ordered to the respondents.

3. Second respondent has entered appearance.

4. On this day, when the matter came up for further hearing, Ms.G.Jagadeswari, learned counsel on record, seeks permission to withdraw the writ petition. She has also made an endorsement to that effect.

5. Placing on record the above, writ petition is dismissed as withdrawn. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mvs.

To

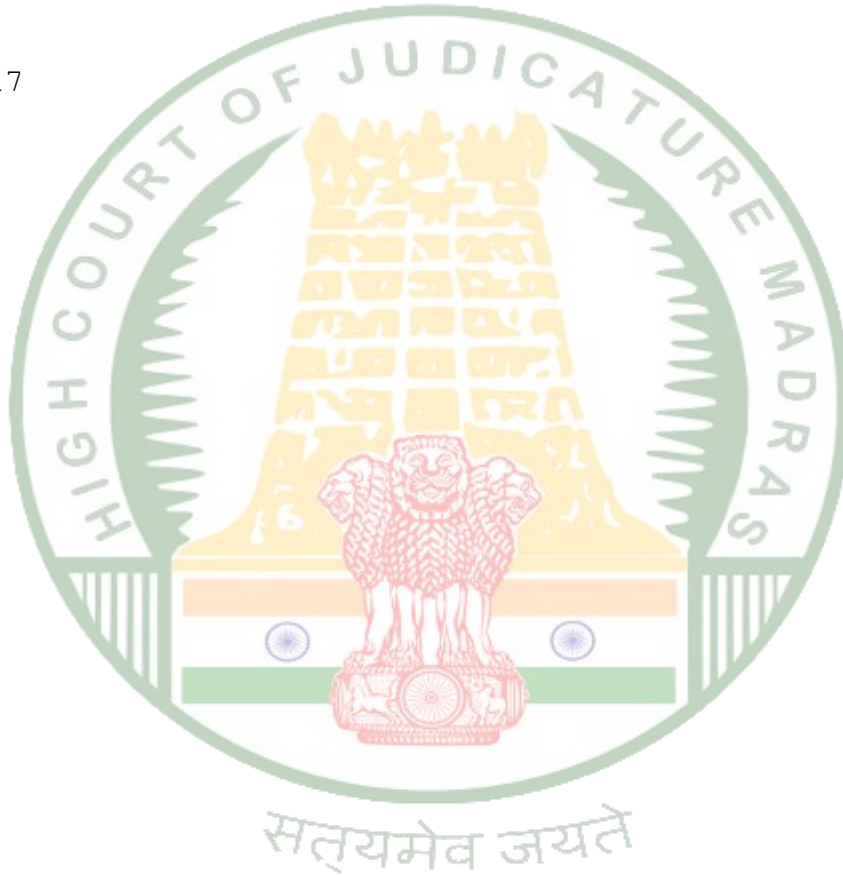
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+1cc to Mr.T.Annamalai, Advocate, S.R.No.68327
+1cc to Ms.G.Jagadeeswari, Advocate, S.R.No.69250

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MN(CO)
CS/01/11/17



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