IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.21873 of 2014
and
M.P.No.1 of 2014

M/s.New Chennai Township Pvt.Ltd.,
rep.by its Authorised Signatory,
No.4/318, Rajiv Gandhi Salai (Old Mahabalipuram Road),
Kottivakkam, Chennai-600 041. ..Petitioner

-vs-

1.The Chief General Manager,
Reserve Bank of India,
Chennai-600 001.

2.Central Bank of India,
rep.by its Chairman and Managing Director,
Head Office, Chandramukhi Building,
Nariman Point,
Mumbai-400 021.

3.Central Bank of India,
(Corporate Finance Branch),
rep.by its Deputy General Manager,
Addison Buildings, 803, Anna Salai,
Chennai-600 002.

4.Phoenix Asset Reconstruction Company Pvt.Ltd.,
represented by its Chief Operating Officer,
Dani Corporate Park, 7th Floor, 158, C.S.T.Road,
Kalina, Santacruz (East),
Mumbai-400 098. ..Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 23.07.2014 bearing Ref.No.CFB/CHENNAI/ADV/2014-15/312 issued by the third respondent and to quash the same and consequently direct the respondents 2 and 3 not to proceed further action against the petitioner in any manner.

For Petitioner : Dr.T.Ramasamy

For Respondents : Mr.K.Mohandas for R3

Mr.P.Ilayarajkumar for M/s.Ramalingam & Associates for R4

ORDER

(Order of the Court was made by THE HON'BLE ACTING CHIEF JUSTICE)

This writ petition has been filed to quash the impugned proceedings of the third respondent in Ref.No.CFB/CHENNAI/ADV/ 2014-15/312 dated 23.07.2014 and to consequently direct the respondents 2 and 3 not to proceed in taking further action against the petitioner in any manner.

2.It is stated in the affidavit filed in support of this writ petition that the petitioner is a Private Limited Company. They availed term loans for a sum of Rs.193.29 Crores from the second respondent bank for housing, by mortgaging their assets. Thereafter, due to adverse market conditions, the account of the petitioner had become sick and irregular and it was declared as a non-performing asset from May 2013. On 10.02.2014, the second respondent bank issued a letter to the petitioner to show-cause as to why the petitioner and its guarantor could not be termed as 'wilful defaulter'. Thereafter the bank had invoked the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and negotiated with the fourth respondent, and assigned the debt by an assignment agreement dated 28.03.2014. The fourth respondent had also notified the petitioner about the same. A communication was also received from the third respondent that the Central Bank of India has absolutely assigned and transferred the debt to Phoenix ARC Private Limited acting in capacity as Trustee of Phoenix Trust for the year 2014-15. As per the said communication, the petitioner contacted the fourth respondent for rescheduling the loans so as to restart the business and to repay the borrowed loan. While so, the impugned letter dated 23.07.2014 was issued by the third respondent to show-cause as to why the petitioner and its guarantors and Directors be declared as wilful defaulter. Challenging the same, the present writ petition is filed with the prayer as already stated supra.

3.The learned counsel for the petitioner has submitted that the impugned letter issued by the third respondent is arbitrary and unsustainable in law. He further submitted that the respondent bank had not given any opportunity to the petitioner, its Directors and Guarantors to appear in person and make a representation, that they have been wrongly classified as wilful defaulter. Stating that the denial of opportunity is against the principles of natural justice, the learned counsel seeks for quashing the impugned letter of the third respondent.

4.Heard the learned counsel on either side and perused the materials available on record.

5.It is seen from the records that about Rs.200 Crores is due from the petitioner to be recovered by the bank. The petitioner has not taken any steps to make even a part payment out of such a huge amount, as per the promise made by him to the bank. It appears that the debt was assigned to the fourth respondent and pursuant to the same, the impugned letter was issued by the third respondent to the petitioner. Without taking any efforts to make any payment, the petitioner has come forward with this writ petition, challenging the said letter issued by the third respondent. This type of attitude on the part of the petitioner is only to protract the proceedings and nothing otherwise. Having borrowed a huge sum from the bank, the petitioner had not taken any steps to make even a part payment.

6.In such view of the matter, the writ petition deserves only to be dismissed and accordingly it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Chief General Manager,
Reserve Bank of India,
Chennai-600 001.

2.The Chairman and Managing Director,
Central Bank of India,
Head Office, Chandramukhi Building,
Nariman Point,
Mumbai-400 021.

3.The Deputy General Manager,
Central Bank of India,
Corporate Finance Branch,
Addison Buildings, 803, Anna Salai,
Chennai-600 002.

+1cc to Mr. K. Mohan das, Advocate Sr. 13695
+1cc to Dr. T. Ramasamy, Advocate Sr. 13257

+1cc to Mr. Ramalingam & Associates, Advocate Sr. 2723
dt. 27.4.2017

W.P.No.21873 of 2014
and
M.P.No.1 of 2014

RK(CO)
VR(20/03/2017)