

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.12473 to 12480 of 2017 and 11188 of 2017
and

W.M.P.Nos.13264 to 13271 of 2017 and 12133 of 2017

WP.No.12473/2017

1 K.Paramasivam [PETITIONER]
Proprietor Sri Maharaja Industries S/o.
(Late) Karuppanna Gounder 119 Bhavani Road
Erode 638 004 Tamilnadu

Vs

1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003

2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(a) These Writ petitions are filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified mandamus, calling for the records of the 1st respondent culminating in its notice bearing DGM/ ADV/ 1981 dated 1.3.2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.12474/2017

1 Sri Maharaja Refineries [PETITIONER]
rep. by its Partner Mrs.S.Saradha 119
Bhavani Road Erode 638 004 Tamilnadu

Vs

1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003
2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(b) calling for the records of the 1st respondent culminating in its notice bearing DGM/ ADV/ 1981 and DGM/ADV/1985 both dated 1.3. 2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.12475/2017

1 Sri Maharaja Oil Imports and [PETITIONER]
Exports India Pvt Ltd rep by Director K.
Paramasivam S/o.(Late) Karuppanna Gounder
119 Bhavani Road Erode 638 004 Tamilnadu

Vs

1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003
2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(c) calling for the records of the 1st respondent culminating in its notice bearing DGM/ ADV/ 1981 dated 1.3.2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.12476/2017

1 Uma Shanker Traders [PETITIONER]
rep by Partner K.Paramasivam rep by
Partner K.Paramasivam S/o.(Late) Karuppanna
Gounder 119 Bhavani Road Erode 638 004
Tamilnadu

Vs

1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003
2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(d) calling for the records of the 1st respondent culminating in its notice bearing DGM/ ADV/ 1981 and DGM/ADV/ 1984 both dated 1.3. 2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.12477/2017

1 Maharaja Sivam Industries [PETITIONER]
P. Ltd. Rep. by its Director Mr.K.
Paramasivam S/o.(Late) Karuppanna Gounder
119 Bhavani Road Erode 638 004 Tamilnadu

Vs

- 1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003
- 2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(e) calling for the records of the 1st respondent culminating in its notices bearing DGM/ ADV/ 1981 and DGM/ADV/1988 both dated 1.3.2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.12478/2017

- 1 Maharaja Prawn farming and [PETITIONER]
Oil Dealers P. Ltd. rep. by its Director Mr.
K.Paramasivam S/o.(Late) Karuppanna Gounder
119 Bhavani Road Erode 638 004 Tamilnadu

Vs

- 1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003
- 2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(f) calling for the records of the 1st respondent culminating in its impugned notice bearing DGM/ ADV/ 1981 and DGM/ADV/1989 both dated 01.03.2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the

respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.12479/2017

1 Maharaja Kalaiarangam [PETITIONER]
P. Ltd. Rep. by its Director Mr.K.
Paramasivam S/o.(Late) Karuppanna Gounder
119 Bhavani Road Erode 638 004 Tamilnadu

Vs

1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003

2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(g) calling for the records of the 1st respondent culminating in its notices bearing DGM/ ADV/ 1981 and DGM/ADV/1982 both dated 1.3.2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.12480/2017

1 Mrs.P.Sundari [PETITIONER]
W/o.Mr.K.Paramasivam 119 Bhavani Road
Erode- 638 004 Tamil Nadu

Vs

1 State Bank of India [RESPONDENTS]
rep. by its Authorised Officer Commercial
Branch 45 Sathy Road Erode 638 003

2 State Bank of India
rep. by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(h) calling for the records of the 1st respondent culminating in its notice bearing DGM/ ADV/ 1981 and DGM/ADV/ 1986 both dated 1.3.2017 issued under section 13(2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

WP.No.11188/2017

1 K.Paramasivam [PETITIONER]
S/o.Late.Karuppanna Gounder 119 Bhavani
Road Erode 638 004 Tamil Nadu

Vs

1 State Bank of India [RESPONDENTS]
Rep by its Authorized Officer Commercial
Branch 45 Sathy Road Erode 638 003

2 State Bank of India
Rep by its Authorized Officer Stressed
Assets Management Branch 1112 Raja Plaza
Avinashi Road Coimbatore 641 037

Prayer

(i)calling for the records of the 1st respondent culminating in its notice bearing DGM/ADV/1981 dt 1.3.2017 issued under Section 13 (2) of the SARFAESI Act quash the same in so far as it seeks to apply provisions of the SARFAESI Act to the agricultural lands of the petitioner set out in the Schedule of the said notice and to forbear the respondents from invoking any provision of the SARFAESI Act in respect of the agricultural lands of the petitioner

For Petitioners : Mr.N.L.Rajah, Senior Counsel
for Mr.Arun Anbumani in all W.Ps.

COMMON ORDER

(The Order of the Court made by S.M.SUBRAMANIAM,J)

The learned Senior Counsel appearing for the petitioners in these batch of cases fairly conceded that though larger prayer has been sought for in all these cases, the learned Senior Counsel restricted the prayer to the extent of directing the respondents to consider all the documents produced by the writ petitioners before the respondent-Bank before issuing any final order under Section 13(4) of the SARFAESI Act.

2. In support of the above contention, the learned Senior Counsel has taken us to the order passed by the Hon'ble Supreme Court of India in S.L.P.(Civil) No.8162 of 2014, dated 25th March 2014. Their Lordships considered the similar contention raised before them and passed an order as under:

".....We are not inclined to interfere in the impugned order passed by the High Court as the respondent-bank is yet to take measures under Section 13(4) of the SARFAESI Act against the petitioner. However, since the petitioner claims to have raised the contention in a subsequent representation that the security interest which is sought to be enforced by the respondent-bank is in respect of agricultural land, the respondent-bank will consider the said contention and communicate its decision to the petitioner before taking any action under Section 13(4) of the Act....."

3. The learned Senior Counsel further contended that it is suffice if the order passed by the Hon'ble Supreme Court of India is adopted in these batch of writ petitions and all the documents produced by the writ petitioners before the respondents shall be considered, and if there is any further document, the same shall also be considered by the respondents on production by the writ petitioners.

4. Though the prime contention of the writ petitioners in these cases are that, the mortgaged agricultural lands are sought to be auctioned by the respondent-bank and according to them, the agricultural lands cannot be auctioned to realize the dues under the SARFAESI Act, this Court is not inclined to consider those facts at this point of time, in view of the fact the learned Senior Counsel restricted the prayer to direct the respondents to consider the documents to be produced by the writ petitioners before the respondent-bank.

5. In view of the above, the writ petitioners in all these cases are at liberty to file their respective documents before the respondents within a period of two weeks from the date of receipt of the copy of this order and on receipt of those documents, the respondents shall consider all the documents and communicate its decision to the petitioners before any orders are passed under Section 13 (4) of the Act.

6. With these observations, all these writ petitions stands disposed of. No costs. Consequently, the connecting Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rna / pvs

To

1. The Authorised Officer,
State Bank of India,
Commercial Branch,
45, Sathy Road, Erode-638 003.
2. The Authorised Officer,
State Bank of India,
Stressed Assets Management Branch,
1112, Raja Plaza, Avinashi Road,
Coimbatore-641 037.

सत्यमेव जयते

+2cc to Mr.Arun Anbumani, Advocate, S.R.No.37083 & 37084

WEB COPY

W.P.Nos.12473 to 12480
of 2017 and 11188 of 2017
and
W.M.P.Nos.13264 to 13271
of 2017 and 12133 of 2018

RJ(CO)
RS(19/05/2017)