

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.6.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDRA

W.P.No.12986 of 2017
and
W.M.P.No.13853 of 2017

M/s.Syndicate Bottles Pvt Ltd.
Represented by its Managing Director
A.P.Ashok Kumar
45 Guruvappa Chetty Street
Chindadripet Chennai-600002

Petitioner

Versus

- 1 The Reserve Bank of India
6 Sansad Marg New Delhi-110001
- 2 Kotak Mahindra Bank
39 Monteith Road 2nd Floor Egmore
Chennai-600008

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 2nd respondent for restructuring of loan as per the Master Circular guidelines issued by the 1st respondent dated 01.07.2015.

For petitioner : Mr.V.Lakshminarayanan

For R1 : Mr.C.Mohan for M/s.King and Partridge

For R2 : Mr.R.Umasuthan

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent-bank and perused the counter filed by the respondent-bank.

2. It appears that the petitioner is engaged in the business of purchasing empty bottles and selling them to Distilleries after sterilizing them and for such business, a huge amount was borrowed from the respondent-bank wayback in the year 2011. It also appears that due to calamity that had taken place during December 2015, it is pleaded by the petitioner that, they have suffered a heavy loss and even the insurance claim made by them was rejected. Consequent to that, it appears that the petitioner is facing SARFAESI proceedings at the hands of the respondent-bank.

3. On perusal of the entire papers available on record, we find that challenging the notice issued by the second respondent-bank under section 13(2) of the SARFAESI Act, the writ petitioner had already filed S.A.No.138 of 2017 before Debts Recovery Tribunal-III, Chennai and pending such proceedings, they have come up with the present writ petition seeking for a direction to entertain their claim of restructuring of the loan as per the guidelines issued by the Reserve Bank of India. Now pending the present writ petition, the proceedings before the Debts Recovery Tribunal came to be dismissed. In the present scenario, aggrieved by the action on the part of the respondent-bank in the SARFAESI proceedings, the writ petitioner seeks indulgence of this court.

4. It further appears that among the properties, which are given in mortgage at the time of borrowing the loan, now, the petitioner intends to choose to retain the house property and sell the agricultural land contending that it is valuable.

5. It appears that the appeal filed by the petitioner was not entertained by the Debts Recovery Tribunal, may be due to some communication gap or want of details from the petitioner. But, this court is not inclined to condone any lapses on the part of the petitioner, which resulted in rejection of the appeal of the petitioner by the Tribunal. However, the Tribunals being fact finding authorities, to give one more opportunity to the petitioner, we direct the petitioner to approach the DRT/DRAT as the case may be and to raise all their contentions and it is for such Tribunal do the needful in

accordance with law. With regard to the contention regarding maintainability of proceedings before the DRT/DRAT, the petitioner has to plead and convince the same before the Tribunal and it for the Tribunal to deal with the same also in accordance with law. The petitioner is granted fifteen days time to appear before the DRT/DRAT as the case may be. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

- 1 The Reserve Bank of India
6 Sansad Marg New Delhi-110001
- 2 Kotak Mahindra Bank
39 Monteith Road 2nd Floor Egmore
Chennai-600008

+1cc to Mr.King & Partridge, Advocate SR.No.45237
+1cc to Mr.Uma Sudhan, Advocate SR.No.45130
+1cc to Mr.V.Raghavachari, Advocate SR.No.45100

W.P.No.12986 of 2017

GN(03/07/2017)

सत्यमेव जयते

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