

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.06.2017
CORAM:
THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
and
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
Writ Petition No.13192 of 2017
and
W.M.P.Nos.14190 to 14192 of 2017

1. M/s.Ganekar & Co.
Proprietor Sri.V.Elagovan
S/o.M.Velayutham.

2. M.Velayuatham

....Petitioners

/Vs./

The Canara Bank,
Represented by its authorized officer,
Tondairpet Branch,
No.50 G A Road, Tondiarpet,
Chennai 600 021

...Respondent

Prayer: Writ petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari calling for the records of the respondent in impugned sale notice: 1/2017 dated 26.04.2017 under Section 13(4) SARFAESI Act, read with Rule 8(6) of the Security Interest (Enforcement) Rules 2002 and to quash the same as arbitrary and illegal and against the provisions of SARFESI Act.

For Petitioners : Mr.A.R.L.Sundaresan,
Senior Counsel
for Mr.R.Chandrasudan

For Respondent : Mr.S.Kesavan

ORDER

Seeking to quash the impugned sale notice: 1/2017 dated 26.04.2017 issued by the respondent under Section 13(4) SARFAESI Act, read with Rule 8(6) of the Security Interest (Enforcement) Rules 2002, the petitioner is before this Court with this writ petition.

2.Heard the learned Senior Counsel appearing for the petitioners and the learned counsel for the respondent.

3.It is reported before this Court by the learned Senior Counsel appearing for the petitioners that in a proceeding pending before the Debts Recovery Tribunal, the Tribunal has

granted an order of stay on 15.03.2017 subject to payment of 15% of due amount i.e., Rs.5,49,292/- on or before 17.04.2017. Since, the petitioners have not complied with the said conditional order fully and they have made only part payment, the Tribunal vacated the stay. Therefore, the respondent Bank proceeded with the sale proceeding of the property of the petitioners and also issued an E-Auction Notice on 26.04.2017. Challenging the same, the petitioners are before this Court with this writ petition.

4.Today, the learned Senior Counsel appearing for the petitioners has handed over a demand draft for a sum of Rs.2,75,000/- towards payment of the balance amount as ordered by the Tribunal. The learned counsel for the respondent received the same. He would further submit that the petitioners have filed an application before the Debts Recovery Tribunal for extension of stay.

5.Though larger relief has been sought for in this writ petition, the learned Senior Counsel appearing for the petitioners would pray for stay in respect of confirmation of sale.

6.In view of the above, there shall be an order of stay in respect of confirmation of sale alone however, further decision will be taken by the Debts Recovery Tribunal. The Writ Petition is disposed of accordingly. There shall be no order as to cost. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

jbm/kas

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To

The Canara Bank,
Represented by its authorized officer,
Tondairpet Branch,
No.50 G A Road, Tondiarpet,
Chennai 600 021.

+1 cc to M/s.R.Chandrasudan Advocate sr 39895

+1 cc to M/s.S.Kesavan Advocate sr 39494

W.P.No.13192 of 2017

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