

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20/9/2017

C O R A M

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

Writ Petition No.25186 of 2017

P. Elango

...Petitioner

Vs

1. The Official Liquidator
As the Liquidator of Tan India Ltd
(In Liquidation)
High Court
Madras
UTI Building
Rajaji Salai
Chennai 600 001.
 2. International Asset Reconstruction
Co. Pvt Ltd
Acting in its capacity as Trustee of IARF - 1
Trust Scheme 1
Registered office: 709, 7th Floor
Ansal Bhavan
16 Kasturiba Gandhi Marg
New Delhi 110 001

Another Office at:
No.2 B, K.G.Retreat, Old No.119, New No.26
G.N.Chetty Road
T. Nagar
Chennai 600 017.
 3. M/s. 4 Closure,
Flat No.102, Amrutha Apartments,
Plot No.20, Moti Nagar,
Hyderabad 400 018.
- ... 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 of the second respondent Notice in IARC/CHE/LEG/17-18/48 dated 18/8/2017 intimating a public auction (e-auction) to be held on 27/9/2017 through the service provider the third respondent herein and to quash the same.

For Petitioner ... Mr.B.Raviraja

O R D E R

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

Borrower, Ex.Managing Director of TAN India Limited, which has borrowed money and defaulted, has challenged the auction notice, dated 18/8/2017, which is extracted hereunder:-

Sale of secured assets being immovable property

1. TAN India Limited (In Liq) ("Tan India" the Company/"Borrower"), addressee No.1, (hereinafter referred to as the "Borrower/Notices") now represented by addressee No.2, and the Guarantors (addressee nos. 3 -5), was granted inter alia various financial credit facilities (hereinafter collectively referred to as "Loans") under various Agreements executed between the Borrower/ Guarantors and ICICI bank Limited on the terms and conditions contained therein. Various facilities were guaranteed by addressee No. 3 -5. The Borrower/ Guarantors availed and started utilizing the Loans after providing security for the same. Borrower! Guarantors has defaulted in payment of interest and principal of the Loans, and has failed and neglected to clear the said over dues. As the Borrower/ Guarantors defaulted in making payments of the Loans, it's account was classified as NPA by ICICI Bank Limited in accordance with RBI guidelines and applicable law.

2. ICICI Bank Limited had assigned the debts due and payable by the Borrower arising out of the Loans alongwith the underlying securities in favour of Standard Chartered Bank (SCB) vide Deed of Assignment dated February 18, 2006.

3. Thereafter, SCB had assigned the debts due and payable by the Borrower/Guarantors arising out of the Loans alongwith the underlying securities in favour of International Asset Reconstruction Company Private Limited acting in its capacity as the Trustee of

the IARF-1 Trust Scheme I ("IARC") vide Deed of Assignment dated July 31, 2012 (effective November 15, 2011). -

4. In view of your inability to meet your liabilities in respect of Loans duly secured by various securities and classification of your account as a non-performing asset, IARC issued Demand Notice dated January 30, 2014 ("Notice") u/s 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") calling upon you Noticees to repay the amount mentioned in the said Notice being sum of Rs.2,789,041,242.35 (Rupees Two Hundred and Seventy Eight Crores Ninety Lakhs Forty One Thousand Two Hundred and Forty Two and Thirty-Five paise only) as on January 15, 2014 together with further interest at documented rate thereon till payment and/or realization within the statutory period of 60 days from the date of the receipt of the said Notice.

5. Thereafter, upon failure of you Noticees to repay the amount together with interest mentioned in the Demand Notice dated January 30, 2014, the Authorized Officer of IARC, under the provisions of the SARFAESI Act and in exercise of powers conferred under SARFAESI Act and the Rules thereunder having consent of more than 60% (Sixty Percent) in value of the amount outstanding, took possession of the secured assets more particularly described in Schedule hereto, on July 8, 2014 along with EXIM Bank. L1C & SUUTI.

6. You have, till date, not made payment towards discharge of your liabilities to us and EXIM Bank. L1C & SUUTI in full and hence we propose to sell the aforesaid secured assets, by public auction (e-auction), on September 27, 2017.

7. This is to give you this notice of thirty (30) days that aforesaid secured assets shall be sold by public auction (e-auction) on September 27, 2017 by the undersigned, through IARC's approved

service provider M/s 4 Closure at the web portal <https://bankauctions.in>, Flat No. 102, Amrutha Apartments, Plot No. 20, Motinagar, Hyderabad - 500 018 and the e-auction shall start from 11 AM on July 13, 2017. You may visit the website .of our service provider viz., M/s 4 Closure <https://bankauctions.in> or www.iarc.co.in or email to emailtoinfo@bankauctions.in. aruna@iarc.co.in, srinivas@bankauctions.in Contact Details: Srinivas +91-9515160063, 8142 0000 62/ 66 or 040- 2383 6405 or to aruna@iarc.co.in, 044-45544039/49 for the terms and conditions etc. of e-auction sale.

8. A copy of the E-Auction Public notice inviting tenders/offers containing particulars of the secured assets, reserve price, earnest money deposit, date and time fixed for inspection, last date for submission of offers/online bid application with EMD, date, time and place of sale is also published in Indian Express & Dinamani (Chennai, Coimbatore & Salem Editions), on August 19, 2017.

9. You are entitled to redeem the secured asset by making payment of dues of IARC aggregating to ~513,07,50,957.36 as on May 31, 2017, dues of EXIM Bank aggregating to ~9,29,35,667/- as on May 31, 2017 and dues of LLC aggregating to 7,47,72, 174/- as on May 31, 2017 together with further interest and other amounts at documented rate thereon, at any time before the date of inviting quotations or tender from Public at large in accordance with the provisions under Section 13(8) of SARFAESI Act.

10. This notice is being issued without prejudice to all other rights and remedies available to us in law or contract or both, in respect of the financial assistance and the right to proceed with the Recovery Application before the Debt Recovery Tribunal and to proceed with the execution of the order or decree that has been obtained.

SCHEDULE

1 All the Plant and Machinery attached to the earth or permanently fastened to anything attached to the earth situated at Wattle Division, Odanthurai Village, Avanashi Taluk, Coimbatore Dist., within the sub registration district of Mettupalayam and registration district of Coimbatore.

2. Wattle Division:

All that pieces and parcel of punjai Land and building situated in Odanthurai Village, Avanashi Taluk, Coimbatore Dist., within the sub registration district of Mettupalayam and registration district of Coimbatore measuring around 5.04 acres and bearing old S.no.78 and newly demarcated and sub-divided S.no. 78/3 with a Revenue Assessment of RS 5.61 bounded on :South: Ootacamund - Mettupalayam Main Road and Cobalt Motor Workshop West: Land belonging to V Gopalaswamy Naidu in the S No. 78/1 and well in s.no.78/2 North: Panchayat Reserve Forest East: Land belonging to Mr. K Kandaswami Gounder in S No. 77 together with half share in the well situated on the above property together with all the buildings and structures thereon

3. All the Plant and Machinery attached to the earth or permanently fastened to anything attached to the earth situated at Cement Division situated at Namakkal Registration District, Komarapalayam Sub- Registration District in Katheri Village.

4. Cement Division: Namakkal Registration District, Komarapalayam Sub-Registration District in Katheri Village with following Survey nos.734/1 dry acres 3.94 in this dry 0.05 acres, 734/2 dry acres 4.29 in this dry 2.56 acres, 734/3 dry acres 2.30 in this full dry 2.30 acres, 735/1 dry acres 3.97 in this dry 3.63 acres, 735/2, dry acres 1.20 in this full

dry 1.20 acres, 735/3, dry acres 0.12 in this full dry 0.12 acres, 735/4, dry acres 0.08 in this full dry 0.08 acres, 735/5, dry acres 1.16 in this dry 0.52 acres, 735/7 dry acres 0.11 in this full dry 0.11 acres, 735/8, dry acres 0.74 in this full dry 0.74 acres, 735/9 dry acres 0.27 in this full dry 0.27 acres, 735/10 dry acres 0.59 in this full dry 0.59 acres, 735/11 dry acres 0.31 in this full dry 0.31 acres, 735/12 dry acres 0.05 in this full dry 0.05 acres, (735/4 well, 735/10 well) totaling 12.53 acres. Boundaries: North of Komarapalayam Village Boundary East of balance lands of Nallaya Gounder and Muniappa Gounder West of Manjipalayam Panchayat Road and balance lands of Nallaya Gounder and Muniappa Gounder South of Koolagounder (alias) Muniappa Gounder and Karuva Gounder (Alias) Muniappa Gounder lands in Survey nO.731 and 732

5. All the Plant and Machinery attached to the earth or permanently fastened to anything attached to the earth at Sorbitol Division, Katheri Village, Komarapalayam Sub District, Namakkal Registration District, Tamil Nadu

6. Sorbitol Division

a) Punja land admeasuring 2 acres 32 cents in survey no. 732/1 situate in Katheri Village, Komarapalayam Sub District, Namakkal Registration District, Tamil Nadu, Bounded by:

East: Lands belonging to K Gounder and M. Gounder & others

West: Property belonging to Shamsudin North & South by Lands belonging to Orukomalai Gounder & others Together with all customary easement rights including the Right over the path

way running east West in S.no.731/1 and South-North

1) Punja land admeasuring 2 acres 78 cents in Survey No 731/5 situated at Katheri Village, Komarapalayam Sub District, Namakkal Registration District, Tamil Nadu, bounded by:

East: Survey n0.732/2
West Manjipalayam Panchayat Road
North: Land belonging to Koolai Gounder & N.Muniappa Gounder & others
South: Lands belonging to Shamsudin

2) Punja land admeasuring 2 acres 32 cents in Survey No 732/2 situated at Katheri Village, bounded by:

East Lands belonging to P. Sengoda Mudali & Nallammal & others
West S. No 731/5
North: Land belonging to Koolai Gounder & N.Muniappa Gounder & others
South: Lands belonging to SSM Lakshmi Ammal Mines & Minerals Pvt Ltd. Punja lands admeasuring 55.5 cents in Survey No 731/4 situated at Katheri Village bounded by:
East Manjipalayam Panchayat Road running South -North West Land belonging to Muniappa Gounder & others North: Land belonging to Peetha Gounder & others
South: Lands belonging to Manimeghalai
Totaling 7.975 acres Together with all easement rights and right over the common pathway together with all buildings and structures thereon.

7. All the Plant and Machinery attached to the earth or permanently fastened to anything attached to the earth at Textile Factory Division, Katheri Village and Komarapalayam Amani Village in Komarapalayam Sub-District in Namakkal Registration District in Salem District in the state of Tamil Nadu

8. Textile Division:

All those pieces and parcels of land in Katheri Village and Komarapalayam Amani Village in Komarapalayam Sub-District in Namakkal Registration District in Salem District in the state of Tamil Nadu as per the following Survey no's & extent

- a) Katheri Village - 655/4- 0.55Acres, 655/5 -0.81 acres, 655/7- 0.17 acres, S No. 655/1 - 0.34acres, 655/3 -0.16acres
- b) Komarapalayam Aamani Village Sy.No. 194/2 - 2.40 acres, 194/3 - 0.55 acres, 195/1- 1.97 acres, 195/2 - 1.61 acres,

196/1- 0.39 acres, 194/1 -0.25acrestotaling
9.20 acres together with all buildings and
structures thereon.

2. Inviting the attention of this Court to the order, dated 17/7/2017, made in W.P.No.16145 of 2017, Mr.B.Raviraja, learned counsel for the petitioner submitted that after the disposal of the said writ petition, fresh representations have been made by the petitioner, enhancing 20% of the crystallised offer which was payable on or before 31/12/2016, and though reference was also made to RBI Notification, dated 19/3/2014, turning deaf ear to the above said representation and guidelines, International Asset Reconstruction Co. Pvt Ltd., Chennai/second respondent has rejected the offer.

3. Inviting the attention of this Court to the description of the subject properties, brought for auction, he contended inter alia that an extent of 7.95 acres of punja land brought for auction, is agricultural land and thus, exempted under Section 31 (i) of the SARFAESI Act, 2002.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Earlier, when auction notice, dated 6/6/2017, fixing e-auction, on 13/7/2017, through the service provider was challenged, in W.P.No.16145 of 2017, learned counsel for the petitioner submitted that, vide order, dated 6/7/2017, this Court has passed the following order:-

"Without prejudice to the contentious issues raised, raised in this writ petition, learned counsel appearing for the petitioner agrees that auction may go on, but confirmation be stayed. His submission is placed on record. Auction may go on, but confirmation be stayed."

6. Placing on record the above, this Court directed auction may go on, but confirmation be stayed. We further directed the respondents therein would revert on the proposal stated to have been submitted.

7. When W.P.No.16145 of 2017 came for hearing, on 17/7/2017, Mr.P.S.Raman, learned counsel appearing for the respondents 3 and 4 therein, submitted that sale scheduled on 13/7/2017, did not take place and that the writ petition has become infructuous.

8. Mr.B.Raviraja, learned counsel, who appeared for the petitioner, in W.P.No.16145 of 2017, sought permission, to withdraw the writ petition, so as to raise all tenable grounds,

before the forum, in the pending proceedings. He also sought for liberty to make a fresh One Time Settlement (OTS) proposal, to the respondents 3 and 4 therein, which the petitioner would make within two weeks from 17/7/2017.

9. Mr.P.S.Raman, learned counsel appearing for the respondents 3 and 4 therein submitted that if any proposal has been made, the same would be considered within two weeks thereafter.

10. Thus, placing on record the above submission of the learned counsel for both parties, writ petition was dismissed as withdrawn. Liberty as prayed for by the petitioner was given.

11. Subsequently, revised proposal made for one time settlement has not been agreed by the Bank. Though, the learned counsel for the petitioner submitted that the Bank has failed to consider the enhancement of 20% of the amount, as on 31/12/2016 and also referred to RBI guidelines and contended that rejection of the offer is erroneous, this Court deems it fit to consider a decision this Court, in Tamilnadu Industrial Investment Corporation Vs. Millenium Business Solutions Private Limited, reported in 2004 (5) CTC 689, wherein at Paragraph Nos.7,8,16 and 18, held as follows:

"7.In our considered opinion it is not proper for the Court to interfere in such matters relating to recovery of loans. Such matters are contractual in nature and writ jurisdiction is not the proper remedy for this. A writ lies when there is an error of law apparent on the face of the record, or there is violation of law. No writ lies merely for directing one time settlement or for directing re-scheduling of the loan or for fixing instalments in connection with the loan. It is only the bank or the financial institution which granted the loan which can re-schedule it or fix one time settlement or grant instalments. The Court has no right under Article 226 of the Constitution to direct grant of one time settlement or for re-scheduling of the loan, or to fix instalments.

8. No doubt Article 226 on its plain language states that a writ can be used by the High Court for enforcing a fundamental right or for 'any other purpose'. However, by judician interpretation the words 'any other purpose' have been interpreted to mean the enforcement of any legal right or performance of any legal duty, vide Calcutta Gas Co. v. State of West Bengal, AIR 1963 SC 1044. In the present case, the writ petitioner has really prayed

for a Mandamus to the Corporation to grant it a one time settlement, but no violation of any law has been pointed out. In our opinion, no such mandamus can be issued in this case, and hence the writ petition should not have been entertained. A mandamus is issued only when the petitioner can show that he has a legal right to the performance of a public duty by the party against whom the mandamus is sought.

16. A loan is granted in terms of the contract, and grant of one time settlement or re-scheduling of the loan amount is really a modification of the contract, which can only be done by mutual consent of the parties, vide Section 62 of the Contract Act, 1872. The Court cannot alter the terms of the contract.

18. Before parting with the case we would like to mention that recovery of tens of thousands of crore rupees of loans of banks and financial institutions has been held up by Court orders under Article 226 proceedings which were really unwarranted. However, much sympathy a Court may have for a party, a writ Court must exercise its jurisdiction on well settled principles, and not a mere sympathy or compassion. No doubt, there be hardship to a party, but unless violation of law is shown the Court cannot interfere. Holding up recoveries of loans by unwarranted Court orders is causing incalculable harm to our economy, since unless the loan is recovered a fresh loan cannot be granted to needy persons. The Courts must keep these considerations in mind."

12. In the light of the above decision, this Court is not inclined to accept the said plea.

13. In so far as the contentions that agricultural properties, measuring a total extent of 7.975 acres of land, brought for auction is exempted, under the provisions of Section 31 (3) of the SARFAESI Act, 2002, it is always open to the petitioner, to move the Tribunal, challenging the sale notice, which the petitioners have agreed to do so, at the time when W.P.No.16145 of 2007 was disposed of, on 17/7/2017.

14. At the risk of repetition, we deem it fit to extract the submission of Mr.B.Raviraja, learned counsel for the petitioner made in W.P.No.16145 of 2017.

"3. Mr.B.Raviraja, learned counsel appearing for the petitioner seeks permission to withdraw the writ petition, so as to raise all tenable grounds before the forum, in the pending proceedings."

15. Repeatedly, the Hon'ble Supreme Court has held that when there is an efficacious and alternate remedy, under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act or Securitisation And Reconstructions of Financial Assets Act, 2002, as the case may be, writ petition is not maintainable. We deem it fit to consider the following decisions.

(i) In Precision Fastenings v. State Bank of Mysore, reported in 2010(2) LW 86, this Court held as follows:

"This Court has repeatedly held in a number of decisions right from the decision in Division Electronics Ltd. v. Indian Bank (DB) Markandey Katju, C.J., (2005 (3) C.T.C., 513), that the remedy of the aggrieved party as against the notice issued under Section 13(4) of SARFAESI Act is to approach the appropriate Tribunal and the writ petition is not maintainable. The same position has been succinctly stated by the Hon'ble the Supreme Court in Transcore v. Union Of India (2006 (5) C.T.C. 753) in paragraph No. 26 wherein the Supreme Court has held as under:

—
"The Tribunal under the DRT Act is also the Tribunal under the NPA Act. Under Section 19 of the DRT Act read with Rule 7 of the Debts Recovery Tribunal (Procedure) Rules, 1993 (1993 Rules), the applicant bank or FI has to pay fees for filing such application to DRT under the DRT Act and, similarly, a borrower, aggrieved by an action under Section 13(4) of NPA Act was entitled to prefer an Application to the DRT under Section 17 of NPA." (Emphasis added) "

(ii) In Union Bank of India v. Satyawati Tondon, reported in 2010 (5) LW 193 (SC), the Hon'ble Apex Court has held as follows:

"16. The facts of the present case show that even after receipt of notices under Section 13(2) and (4) and order passed under Section 14 of the SARFAESI Act, respondent Nos. 1 and 2 did not

bother to pay the outstanding dues. Only a paltry amount of Rs. 50,000/- was paid by respondent No. 1 on 29.10.2007. She did give an undertaking to pay the balance amount in installments but did not honour her commitment. Therefore, the action taken by the appellant for recovery of its dues by issuing notices under Section 13(2) and 13(4) and by filing an application under Section 14 cannot be faulted on any legally permissible ground and, in our view, the Division Bench of the High Court committed serious error by entertaining the writ petition of respondent No. 1.

17. There is another reason why the impugned order should be set aside. If respondent No. 1 had any tangible grievance against the notice issued under Section 13(4) or action taken under Section 14, then she could have availed remedy by filing an application under Section 17(1). The expression 'any person' used in Section 17(1) is of wide import. It takes within its fold, not only the borrower but also guarantor or any other person who may be affected by the action taken under Section 13(4) or Section 14. Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective. Unfortunately, the High Court overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc., the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, High Court must insist that before availing remedy under Article 226 of the Constitution, a person must

exhaust the remedies available under the relevant statute.

18. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for re-dressal of his grievance. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in Baburam Prakash Chandra Maheshwari v. Antarim Zila Parishad AIR 1969 SC 556, Whirlpool Corporation v. Registrar of Trade Marks, Mumbai (1998) 8 SCC 1=1999-2-L.W. 200 and Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others (2003) 2 SCC 107 and some other

judgments, then the High Court may, after considering all the relevant parameters and public interest, pass appropriate interim order.

27. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and SARFAESI Act and exercise jurisdiction under Article 226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.

28. Insofar as this case is concerned, we are convinced that the High Court was not at all justified in injuncting the appellant from taking action in furtherance of notice issued under Section 13(4) of the Act.

29. In the result, the appeal is allowed and the impugned order is set aside. Since the respondent has not appeared to contest the appeal, the costs are made easy."

(iii) In *Saraspathy Sundararaj v. Authorised Officer and Assistant General Manager, State Bank of India*, reported in (2010) 5 LW 560, the Court held as follows:

... When a specific forum has been created which enables the borrower to challenge the action of the financial institution by filing necessary petition under Section 17, the petitioner is not entitled to invoke the writ jurisdiction of this Court. What could not be achieved by the petitioner by filing a petition before the appropriate Forum, which is at present barred by period of limitation, could not be permitted to be achieved by extending the jurisdiction conferred to this Court under Article 226 of The Constitution of India. Above all, since the petitioner has violated the terms and conditions of the loan by transferring the property in favour of her son, this Court is not inclined to entertain the petition.

9. In the light of the above decision of the

Honourable Supreme Court, the writ petition filed by the petitioner seeking to set aside the possession notice issued to her long back is legally not sustainable. We are of the considered view that this petition has been filed only to drag on the proceedings and to evade repayment of the loan. That be so, the petitioner has no legal right to compel the bank to accept the one time settlement offer made by her.

13. The present case is identical in nature and it is covered by the judgment of the Supreme Court mentioned supra. In this case, the petitioner has violated the condition of mortgage by transferring the secured asset in favour of her son and therefore, as per clause 1.7 of the OTS Scheme offered by the bank, the petitioner has to be excluded from extending the benefits of the scheme which was rightly done by the bank. In any event, without exhausting the alternative remedy, the relief sought for by the petitioner by invoking the discretionary remedy under Article 226 of The Constitution of India cannot be granted."

16. When the petitioner sought for permission to withdraw Writ Petition No.16145 of 2017, to raise all tenable grounds before the forum, and leave granted and in the light of the decisions stated supra, it is not open to the petitioner to approach, this Court, once again challenging the sale notice, on the grounds already raised, except an addition, ie., rejection of fresh One Time Proposal.

17. In the light of the above discussion and decisions, we are not inclined to entertain the instant writ petition. Accordingly, writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

सत्यमेव जयते
s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

mvs.

To

1. The Official Liquidator
As the Liquidator of Tan India Ltd
(In Liquidation)
High Court
Madras
UTI Building
Rajaji Salai
Chennai 600 001.

2. International Asset Reconstruction
Co. Pvt Ltd
Acting in its capacity as Trustee of IARF - 1
Trust Scheme 1
Registered office: 709, 7th Floor
Ansal Bhavan
16 Kasturiba Gandhi Marg
New Delhi 110 001

Another Office at:
No.2 B, K.G.Retreat, Old No.119, New No.26
G.N.Chetty Road
T. Nagar
Chennai 600 017.

+1 CC to Mr.B. Ravi Raja, Advocate sr 68639.

Writ Petition No.25186 of 2017

RR(CO)
sp(23/10/2017)

सत्यमेव जयते

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