

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2017

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THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.15224 of 2017  
and  
WMP.No.16520 of 2017

M/s.AAKR LG Super Shoppee  
rep. by its Managing Partner  
Mr.Aanandha Kumar, S/o.C.J.Nagabushanam,  
6A, Maheswari Nagar,  
100 Feet Bypass Road,  
Velachery, Chennai-42. .... Petitioner

Vs

State Bank of Travancore  
Now merged with State Bank of India,  
Velachery Branch,  
Plot No.9, Old No.11-B, New No.20,  
III Main Road, Rajalekshmi Nagar,  
Velacherry, Chennai-42. .... Respondent

Prayer: Writ Petition filed under Article 226 of the  
Constitution of India, praying to issue a Writ of Mandamus,  
forbearing the respondent from proceeding against the petitioner  
business premises located at 6A Maheswari Nagar, 100 Feet  
Bypass Road, Velachery, Chennai-42, except by invoking the  
provisions of SARFAESI Act.

For Petitioner : Mr.G.Jeremiah

For Respondent : Mr.M.L.Ganesh

ORDER

The Writ Petition has been filed by the petitioner, praying  
to issue a Writ of Mandamus, forbearing the respondent from  
proceeding against his business premises located at 6A Maheswari  
Nagar, 100 Feet Bypass Road, Velachery, Chennai-42, except by  
invoking the provisions of SARFAESI Act.

2. Heard Mr.G.Jermiah, the learned Counsel appearing for  
the petitioner and Mr. M.L.Ganesh, the learned Counsel appearing  
for the respondent.

3. When the matter is taken up for hearing, the learned Counsel appearing for the petitioner filed an Affidavit of Undertaking of the petitioner wherein it has been stated as follows:

I, Aanandha Kumar, son of C.J.Nagabushanam, Hindu, aged about years having my business at 6A, Maheswari Nagar, 100 Feet, Bypass Road, Velachery, Chennai-600 042, now come down to Chennai do hereby solemnly affirm and sincerely state as follows:

1. I am of the Managing Partner of the petitioner firm and as such, am well acquainted with the facts of the case and I am authorised to swear this affidavit.

2. I state that the above writ petition has been filed for the relief of 'writ of Mandamus' forbearing the respondent from proceeding against the petitioner business premises located at 6A, Maheswari Nagar, 100 Feet, Bypass Road, Velachery, Chennai-42, except by invoking the provisions of SARFAESI Act.

3. I state that when the writ petition came up for hearing on 13.07.17, my counsel requested this Hon'ble Court to permit the petitioner to sell the electronic consumable goods available at the petitioner premises in the presence of the respondent. It was further submitted that sufficient time may be granted to the petitioner to identify a purchaser/purchasers for the goods. Accordingly this Hon'ble Court directed the petitioner to file an affidavit of undertaking to that effect.

4. I state that I as Managing Partner for and behalf of the petitioner firm do hereby undertake to sell all the consumer electronic goods that are presently available at the petition premises in the presence of the respondent or its representatives. The petitioner prays for a period of four weeks to identify purchaser/purchasers for the goods. The respondent bank shall depute a duly authorised representative to be present at the petitioner's premises and allow the prospective purchaser/purchasers to inspect the goods during working hours. I further undertake to give advance notice to the respondent bank regarding the inspection of the goods and mutually fix a time for the inspection. I state that I require a period of four weeks to complete the entire exercise.

It is therefore prayed that this Hon'ble Court may be pleased to record the above undertaking affidavit and pass such further or other order in the above writ petition and thereby render justice.'

4. In paragraph 4 of the Affidavit of the petitioner, the petitioner prays for four weeks time to identify the purchasers for the sale of the electronic items and also has stated that the bank shall depute a duly authorised representative to be present at the petitioner's premises and allow the prospective buyer to inspect the goods during working hours. The petitioner has also given an undertaking to give advance notice to the respondent bank regarding the inspection of the goods and mutually fix a time for the inspection. For completing the said exercise, the petitioner has sought for four weeks time.

5. Mr.M.L.Ganesh, the learned Counsel appearing for the respondent, on instructions, submitted that the respondent bank is agreeable for granting four weeks time to the petitioner to sell the electronic goods and deposit the sale proceeds to the respondent bank.

6. In view of the submissions made by the learned Counsel on either side, the Writ Petition is disposed of in terms of the Affidavit of Undertaking filed by the petitioner and it is made clear that in the event of the petitioner failing to pay the sale consideration to the respondent bank within the stipulated time of four weeks from the date of receipt of a copy of this Order, it is open to the respondent to proceed against the petitioner in accordance with law. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

State Bank of Travancore  
Now merged with State Bank of India,  
Velachery Branch,  
Plot No.9, Old No.11-B, New No.20,  
III Main Road, Rajalekshmi Nagar,  
Velacherry, Chennai-42.

+lcc to Mr.M.L.Ganesh, Advocate, S.R.No.57400

+lcc to Mr.I.Abrar Md Abdullah, Advocate, S.R.No.57588

W.P.No.15224 of 2017

SJ(CO)

CA(10/08/2017)