IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S. MANIKUMAR
AND
THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

Writ Petition No.23201 of 2015
M.P.Nos.1 and 2 of 2015

Susha Cosmetics,
rep., by its Proprietor,
M.Saraswathi ... Petitioner

v.

1. The Authorised Officer,
Syndicate Bank,
Pallipalayam Branch,
No.23, Bye Pass Road,
Sankari Main Road,
Pallipalayam 638 006,
Namakkal District.

2. Mr.N.Subramani,
Branch Manager,
Syndicate Bank,
Pallipalayam Branch,
No.23, Bye Pass Road,
Sankari Main Road,
Pallipalayam 638 006,
Namakkal District. ... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records, on the file of the 1st respondent in Ref.No.SARFAESI/CRO/6132/REC/2015/F-ORD/2023, dated 30.05.2015 and quash the same, as illegal and ultra vires.

For Petitioners : Mr.K.Ramanraj

For Respondents 1 & 2 : Mr.K.S.Viswanathan

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

O R D E R

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

Challenge in this writ petition, is to the notice, dated 30.05.2015, issued under Section 13(2) of SARFAESI Act, 2002. Notice under Section 13(2) is only a demand made by the Bank and the Hon'ble Supreme Court in Mardia Chemicals v. Union of India reported in AIR 2004 SC 2371 : 2004(4) SCC 311 has held that notice under Section 13(2) would not give rise to a cause to challenge.

2. As per Section 13(3A) of the SARFAESI Act, 2002, if, on receipt of the notice under sub-section (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower. Proviso to the said Section states that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17A. In the light of the above decision and the statutory provision, writ of certiorari, cannot be issued to quash the notice under Section 13(2) of the SARFAESI Act 2002.

3. However, on this day, when the matter came up for hearing, Mr.K.Ramanraj, learned counsel for the petitioner submitted that consensus have been arrived at between the parties, by way of One Time Settlement. He seeks permission to withdraw this writ petition.

सत्यमेव जयते
WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. In view of the above submission, writ petition is dismissed as withdrawn. No costs. Consequently, connected Miscellaneous Petition is also closed.

skm

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

+1CC to M/S.K.RAMANRAJ Advocate SR.NO.64557
+1CC to M/S.V.SUTHAKAR Advocate SR.NO.65285

Writ Petition No.23201 of 2015

MK:13/10/2017

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/