

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.6.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Writ Petition No.15907 of 2017

Nibhi Industries Private Limited
Kailash, New No.13, CIT Colony
5th Cross, Mylapore
Chennai 600 004
rep. by its Managing Director
S.A.Bhimaraja. ... Petitioner

Vs.

The Authorised Officer
State Bank of India
Stressed Assets Recovery Branch
Red Cross Building, 2nd Floor
No.32, Montieth Road
Egmore
Chennai 600 008. ... Respondent

Petition under Article 226 of the Constitution of India
praying for a writ of Certiorari calling for the records of the
respondent in SAMB/CLO.II/2017-18/476 and to quash the
Corrigendum Notice dated 12.6.2017 for sale of the secured
assets on 29.6.2017.

For Petitioner : Mr.T.M.Hariharan
For Mr.Nandakumar

For Respondent : Mr.M.L.Ganesh

O R D E R
(Made by Huluvadi G.Ramesh,J)

This writ petition has been filed seeking a writ of Certiorari calling for the records of the respondent in SAMB/CLO.II/2017-18/476 and to quash the Corrigendum Notice dated 12.6.2017 for sale of the secured assets on 29.6.2017.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. The petitioner availed credit facilities from the respondent Bank during the years 2009 and 2011. Due to non payment of dues, the respondent issued notice under Section 13 (2) of the SARFAESI Act and thereafter, issued possession notices under Section 13(4) of the Act. The petitioner challenged the possession notices before the Debts Recovery Tribunal, wherein, the petitioner was directed to pay the amount claimed in the possession notice on or before 27.6.2017, less the amount already paid. In the meantime, the respondent issued notice for e-auction sale of the secured assets on 23.6.2017 and later issued corrigendum postponing the e-auction sale to 29.6.2017. Challenging the said notice, the petitioner has come up with the above writ petition.

4. When the writ petition came up for admission, the petitioner undertook to pay a sum of Rs.2.00 Crores by 27.6.2017. Today, when the matter is taken up for hearing, the learned counsel for the petitioner submitted that the petitioner had paid a sum of Rs.2.00 Crores by 27.6.2017 and has filed a memo to that effect.

5. The learned counsel for the petitioner submitting that the petitioner has made payment of Rs.65.00 Crores till now, including Rs.30.00 Crores paid after the issue of notice under Section 13(2), sought intervention of this Court to defer the auction scheduled tomorrow, to enable the petitioner to negotiate with the respondent for settling the dispute by way of one time settlement. He also undertakes that the petitioner will pay the cost of re-notification, in case the auction is deferred.

6. In view of the above, we deem it fit to give breathing time to the petitioner to discharge the entire dues in order to enable the petitioner to retain the property. Therefore, we direct the respondent to defer the auction scheduled tomorrow, namely on 29.6.2017 and to negotiate with the petitioner for one time settlement or making substantial payment. In case the negotiation did not fructify, the respondent may proceed with

auction, by issuing re-notification, the cost of which shall be borne by the petitioner.

The writ petition is disposed of accordingly. However, there shall be no order as to costs. Consequently, WMP No.17216 of 2017 is closed.

Sd/-
Assistant Registrar(CS V)

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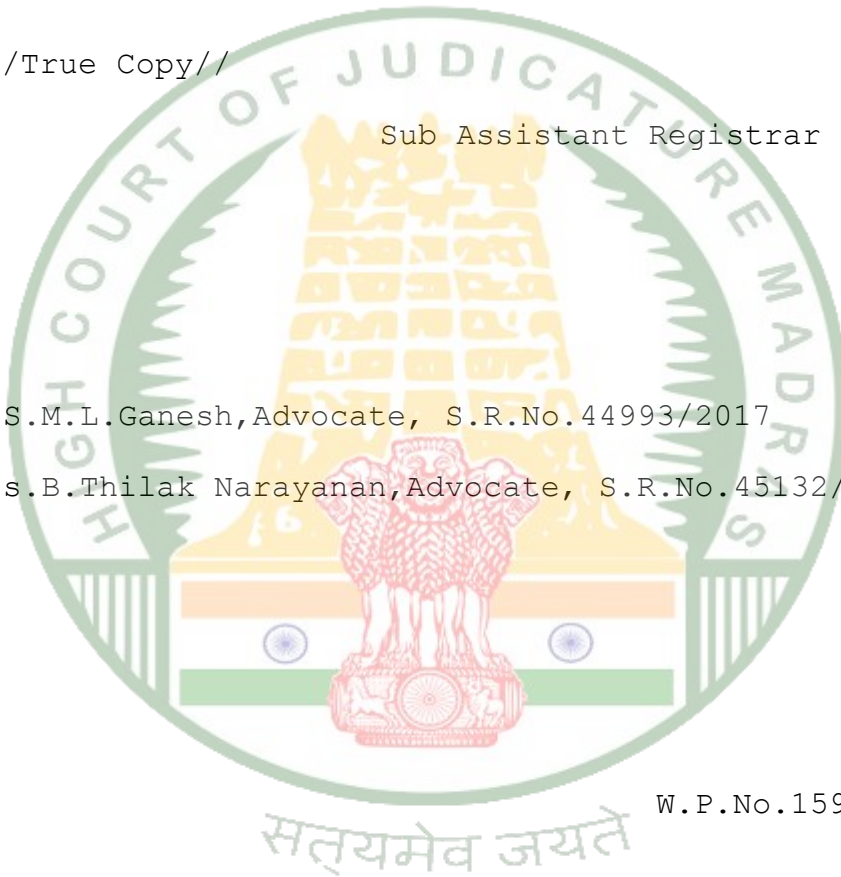
Sub Assistant Registrar

kpl

To

+1cc to M/S.M.L.Ganesh,Advocate, S.R.No.44993/2017

+1cc to M/s.B.Thilak Narayanan,Advocate, S.R.No.45132/2017



W.P.No.15907 of 2017.

AR(CS V)
CU(12/07/2017)

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