

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.16070 of 2017

and WMP Nos.17360 & 17361 of 2017

Kovai Periyar District

Dravida Panchailai Tholilalar Munnetra

Sangam, Coimbatore

Rep. through its General Secretary (LPF),

S.Parthasarathi, Head Office at

134/158, Pangaja Mills Colony,

Ramanathapuram, Coimbatore-641 045

... Petitioner

vs.

1. M/s.V.R.Textiles Pvt. Ltd.,

Rep. by its Director,

384, Sathy Main Road, Nallur, Punjai Puliampatti,

Sathy Taluk, Erode District.

2. M/s.V.R.Textiles P. Ltd.,

Rep. by the Official Liquidator,

O/o. Official Liquidator,

"Corporate Bhavan", 2nd Floor,

29, Rajaji Salai, Chennai - 600 001.

3. R.Vimala

4. R.Santosh

5. The Authorised Officer,

Punjab National Bank,

Asset Recovery Management Branch,

448-A, Dr.Nanjappa Road, Coimbatore - 641 018.

6. Punjab National Bank,

Rep. by its Authorized Officer,

Tiruppur Main Branch,

Now parked at ARMB, Punjab National Bank,

Circle Office, Coimbatore - 641 018.

7. Canara Bank,

Rep. by its Authorized Officer,

Oppanakara Street, Coimbatore,

Now parked at ARMB, T.V.Samy Road,

R.S.Puram, Coimbatore.

8. State Bank of India,  
Rep. by its Authorized Officer,  
(formerly State Bank of Hyderabad),  
Thousand Lights Branch, Chennai

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorari, to call for the records of the 5th respondent e-auction sale notice to the General Public dated 6.5.2017 and quash the same.

For Petitioner : Mr.S.Kolandasamy  
For Respondents : Mr.N.P.Vijayakumar (for R3 & R4)  
Mr.M.L.Ganesh (for R5 & R6)

ORDER

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

Kovai Periyar District Dravida Panchailai Tholilalar Munnetra Sangam, Coimbatore, has sought for a writ of certiorari to quash the e-auction sale notice dated 06.05.2017, on the grounds inter alia that M/s.V.R.Textiles Private Limited, Erode District, has to settle wages and other terminal benefits to the employees of 1st respondent Company. The petitioner has further contended that more than one thousand employees are working in the 1st respondent Textile Unit. Interests of the workers will be affected if the authorised officer, Punjab National Bank, Asset Recovery Management Branch, Coimbatore is permitted to proceed with the e-auction. Incidentally, writ petitioner has also contended that there is undervaluation. According to the petitioner, sum of Rs.3,77,30,823/- being the terminal benefits of 120 workmen has to be settled. Collusion is also alleged.

2. Record of proceedings shows that on 27.06.2017, notice has been ordered to the respondents.

3. Reverting and on the basis of a memorandum signed by Chief Manager/Authorised Officer, Punjab National Bank, Asset Recovery Management Branch, Coimbatore, the 5th respondent, Consortium Leader, for and on behalf of Respondents 6 to 8, Mr.M.L.Ganesh, learned counsel for respondents 5 & 6, submitted that as on 01.02.2017, a sum of Rs.102,08,93,641.35p was due and payable by the 1st respondent company. He also submitted that in C.P.No.271 of 2016, this Court has appointed the Official Liquidator, High Court, Madras, as the Provisional Liquidator. Accordingly, a communication has been sent to the secured creditors on 03.03.2017, about the taking over possession of all the assets, books of accounts and other actionable claims

belonging to the company in liquidation.

4. Mr.M.L.Ganesh, learned counsel for respondents 5 & 6 further submitted that V.R.Textiles Private Limited, Erode, represented by its Director has filed S.A.No.106 of 2017 before Debts Recovery Tribunal, Coimbatore, even after knowing the fact that an Official Liquidator has been appointed by this Court, as the provisional liquidator.

5. Placing reliance on a decision of a Hon'ble Division Bench in M/s.Bharat Heavy Electricals Limited Vs. M/s.Arunachalam Sugar Mills Limited, reported in 2011-2-L.W.719, learned counsel for the Consortium Leader bank submitted that even taking for granted that a sum of Rs.3,77,30,823/- is the wages and terminal benefits to be given to the workmen, SARFAESI proceedings cannot be stalled and it is always open to the workmen to approach the Official Liquidator, by making necessary claims. Finally Mr.M.L.Ganesh, learned counsel for the respondents 5 & 6, submitted that no immovable property, mortgaged with the bank, has been sold in the auction conducted.

6. Learned counsel for the respondents 5 and 6 submitted that M/s.V.R.Textiles Private Limited, rep. by its Director, the 1st respondent company has filed S.A.No.243 of 2016, under Section 17 of the SARFAESI Act, 2002, to set aside the sale notice dated 25.10.2016 issued by the respondent bank, fixing the date of sale on 09.12.2016 and to stay all further proceedings by restraining the bank from taking any action, on the basis of notice dated 25.10.2016.

7. Learned counsel further submitted that in view of the objections raised by the workmen, interim order of status quo has been granted by the Debts Recovery Tribunal in S.A.No.243 of 2016, and that the bank has decided to return the entire amount to the auction purchaser. Submission of the learned counsel for the petitioner is placed on record.

8. Inasmuch as the workmen are protected under the orders of Status quo granted by the tribunal in S.A.No.243 of 2016 on the file of the Debts Recovery Tribunal -I, Coimbatore, and placing on record the abovesaid submission, and though the Company has disputed, liquidation proceedings stating that no final order has been passed in C.P.No.271 of 2016, we are not inclined to issue any writ of certiorari, to quash the sale notice.

9. In view of the above discussion, writ petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ars

To

1. The Authorised Officer,  
Punjab National Bank,  
Asset Recovery Management Branch,  
448-A, Dr.Nanjappa Road,  
Coimbatore - 641 018.

2. The Authorized Officer,  
Punjab National Bank,  
Tiruppur Main Branch,  
Now parked at ARMB,  
Punjab National Bank,  
Circle Office, Coimbatore - 641 018.

3. The Authorized Officer,  
Canara Bank,  
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Now parked at ARMB,  
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R.S.Puram, Coimbatore.

4. The Authorized Officer,  
State Bank of India,  
(formerly State Bank of Hyderabad),  
Thousand Lights Branch, Chennai



+1 cc to M/s.S.Kolandasamy Advocate sr 53177  
+1 cc to M/s.M.P.Vijaykumar Advocate sr 53233  
+1 cc to Mr.M.L.Ganesh Advocate sr 53237

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