

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18/1/2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Writ Petition No.21828 of 2016
and WMP Nos. 18686 & 18687 of 2016

Crombest Precast Buildings Ltd
Chennai 600 098.

.... Petitioner

Vs

1. The Presiding officer
The Hon'ble Debt Recovery Tribunal - III
Spencer Towers, V Floor
770 A Anna Salai
Chennai 600 002.
2. The Authorised Officer
Federal Bank
Asset Recovery Branch
No.57 Royapettah High Road
Chennai 600 004.
3. Bank of India
Mid Corporate Branch
Tarapore Towers, 4th Floor
826 Anna Salai
Chennai 600 002.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent pertaining to its order dated 22/6/2016 made in I.A.No.846 of 2016 in S.A.No.330 of 2016 and quash the same and consequently direct the first respondent to pass orders and dispose of I.A.No.846/2016 in S.A.No.330 of 2016, in accordance with law.

For petitioners
For respondents

... Mr.Srinath Sridevan
... Mr.S.Sathiyarayanan
for R.2
Mr.F.B.Benjamin George
for R.3

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O R D E R

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

Writ petition has been filed against the interim order made in I.A.No.846 of 2016 in S.A.No.330 of 2016 dated 22/6/2016.

2. On 24/6/2016, this Court had passed the following order:-

"Heard the learned counsel for the petitioner.

2. Notice to respondents 2 and 3 - Bank. Private notice is also permitted.

3. The petitioner/Crombest Precast Buildings Ltd., availed financial facility advanced by the respondents Banks and due to financial constraints, the petitioner was unable to complete the project and could not make payment of dues. In such circumstances Section 13 (4) notice, dated 30/10/2014 was issued by the Bank. Hence, the petitioner approached the Bank vide OTS proposal and the same was accepted by the respondent Bank and so far, the petitioner remitted a sum of Rs.5 crores.

4. Now the learned counsel for the petitioner submits that subsequently they received Sale Notice dated 6/4/2016 and they immediately filed S.A.No.279 of 2016 before the DRT - III, Chennai and obtained an order of stay vide order dated 12/5/2016 in S.A.No.279 of 2016 and they also complied with the conditions stipulated in stay order and remitted a sum of Rs.3.2 crores.

5. It is further submitted that the respondent Bank again issued Paper Publication of Sale Notice dated 28/5/2016 fixing the date of Sale on 24/6/2016 (today) and there was no clear 30 days notice as stipulated under Section 13 (8) and Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and hence, the petitioner challenged the Paper Publication before DRT - III, Chennai, vide S.A.No.330

of 2016 and also moved I.A.No.846 of 2016 seeking stay, however the DRT - III, Chennai has not taken up the matter. The learned counsel for the petitioner thus prayed for stay of the sale notice dated 28/5/2016.

6. Since as per the Paper Publication of Sale Notice dated 28/5/2016, the date of sale is fixed today, we are of the view that it would be difficult to carry out the mandate issued by this Court in respect of the auction kept today. However, subject to deposit of another sum of Rs.2 crores (Rupees Two crores only) by the petitioner, within 4 weeks from today, there shall be an order of stay of confirmation of the auction sale.

7. In any event, the counsel for the petitioner is permitted to intimate the order passed by this Court today itself by fax. If the auction of sale has not commenced till that time, the same shall stand stayed. However, if auction has already taken place, before communicating the order passed by this Court, confirmation of sale shall not take place until further orders, subject to payment as indicated above. The petitioner shall make the payment of Rs.2 crores (Rupees Two crores only) to the Bank.

8. List the matter after 2 weeks."

3. On this day, when the matter came up for hearing, Mr.Srinath Sridevan, learned counsel for the petitioner submitted that payment as ordered has not been made. Nevertheless he submitted that inasmuch as S.A.No.330 of 2016 has been subsequently disposed of by the Tribunal, nothing survives in this writ petition for further adjudication. Interim order made in I.A.No.846 of 2016 dated 22/6/2016 merges with the final order made in S.A.No.330 of 2016.

4. Placing on record the above submission of the learned counsel for the petitioner, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

To

1. The Presiding officer
The Hon'ble Debt Recovery Tribunal - III
Spencer Towers, V Floor
770 A Anna Salai
Chennai 600 002.

+1 CC to Mr. Srinath sridevan, Advocate sr 4060

+1 CC to Mr. S. Sathiyarayanan, Advocate sr 3441

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NMI (CO)
sp/8/2

सत्यमेव जयते

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