

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.44745 of 2016
and
W.M.P.No.38563 of 2016

R.Suresh

... Petitioner

versus

1.The Presiding Officer
Debts Recovery Tribunal - II, at Chennai
4th Floor, No.770-A, Anna Salai
Chennai - 600 002

2.The Authorised Officer
Axis Bank Ltd. Southern Recovery Cell
Second Floor, Karumuthu Nilayam
No.192, Anna Salai
Chennai - 600 002

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order dated 05.12.2016 made in I.A.No.730 of 2016 in S.A.No.123 of 2016 on the file of the 1st respondent and quash the same and consequently grant six weeks time to the petitioner to comply with the order dated 24.11.2016 made in SARFAESI Appeal No.123 of 2016 on the file of the 1st respondent.

For Petitioner : Mr.J.Arun Prasad

For Respondents: Mr.V.V.Sivakumar for R2

O R D E R

(made by S.MANIKUMAR, J.)

Order impugned in the instant writ petition is as follows:

"IN THE DEBTS RECOVERY TRIBUNAL-II AT CHENNAI
TRUE EXTRACT OF PROCEEDINGS OF THE TRIBUNAL ON 5/12/16
OA No.123/16

R.Suresh

.. Applicant

Vs

Axis Bank

.. Defendant (s)

SA 123/16

05.12.2016

Counsel for both sides present. Conditional order passed not complied and hence stay is vacated.

I.A.No.730/16 is filed for extension of time for payment. The reason given by the petitioner for extension of time for payment is not satisfactory. Hence, I.A.No.730/16 is dismissed. Enquiry by 04.01.2017.

PO"

2. Borrower, has sought to quash the same, by a writ of certiorari, to call for the records pertaining to impugned order dated 05.12.2016 made in I.A.No.730 of 2016 in S.A.No.123 of 2016 on the file of the 1st respondent and consequently for a time of six weeks to comply with the order dated 24.11.2016 made in SARFAESI Appeal No.123 of 2016 on the file of the 1st respondent.

3. On this day, when the matter came up for hearing, on the basis of a letter dated 02.01.2017 issued by two directors of M/s.AJ Worldwide Metals Pvt. Ltd., Chennai, the writ petitioner herein, to the Authorised Officer, Axis Bank, Mount Road, Mr.V.V.Sivakumar, learned counsel for the Authorised Officer, Axis Bank Ltd, Southern Recovery Cell, Chennai / respondent No.2, submitted that the writ petitioner has agreed to pay a sum of Rs.5,00,000/- on or before 10.01.2017 and to prepare a payment schedule for closure of the balance dues. Mr.J.Arun Prasad, learned counsel for the petitioner, while acknowledging the said submission, seeks permission to withdraw the writ petition. Letter dated 02.01.2017 reads as hereunder:

AJ WORLDWIDE METALS PVT. LTD.

02.01.17

To
Authorised Officer
Axis Bank
Mount Road

Subject : Letter No.002 dated 07.06.2016 - SARFAESI Act
Notice

Based on the discussion today (02.01.17) we are taking all steps for the balance amount to be paid. To

prove our bonafide we are paying 5 lakhs on or before 10.01.17. Further to this we would also prepare a payment schedule for closure of balance dues. The proposal will be submitted on or before 20th January.

We are withdrawing all the cases filed before DRT and High Court on 02.01.2017. We have submitted a letter who is dealing towards the withdrawal of A.J.Worlwide cases. Copy of which is for reference (Enclosed)

We request you to consider the above request and do the needful. Also request the bank not to proceed any further action (auction) towards the property.

Thanking you,

For AJ WORLDWIDE METALS PVT. LTD.
METALS PVT. LTD.
DIRECTOR

For AJ WORLDWIDE
DIRECTOR

Letter dated 02.01.2017, shall also form part of the record. Learned counsel for the petitioner has also made an endorsement for withdrawing of the petition.

In view of the above, writ petition is dismissed as withdrawn. No leave is granted to file a fresh writ petition on the same cause of action. No costs. Consecutively, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

The Presiding Officer,
Debts Recovery Tribunal-II,
4th Floor, No: 770A, Annasalai,
Chennai.

+1cc to Mr.Arunprasad, Advocate, S.R.No.1507
+1cc to Mr.Sivakumar, Advocate, S.R.No.854

KGK(CO)
RS(25/01/2017)

W.P.No.44745 of 2016