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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.02.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**

AND

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

C.R.P.[MD].Nos.61 and 62 of 2017

and

C.M.P.(MD).Nos.222, 223, 1547 and 1548 of 2017

1.M/s.Sri Devi Extractions Private Limited,
Rep by its Director,
Mr.V.Janarthana Guptha,
50A, Salem Road, Namakkal, Namakkal 637 001
: Petitioner/Petitioner/Apellant in CRP 61/2017

1.M/s.Sri Devi Oil Private Limited,Rep.by its Director,
Mr.V.Janarthana Guptha, S.F.No.279/6&7 Villipalayam,
Paramathi,Velur Taluk,Namakkal District-637 206.
:Petitioner/Petitioner/Apellant in CRP 62/2017

2.V.Dhandayuthapani
3.V.Janarthana Guptha
4.D.Geetharani
5.C.Ananth : Petitioners/Petitioners/Apellants in Both
Civil Revision Petitions
Vs.

1.The Authorized Officer,
State Bank of India,
Stressed Assets Management Branch,
"Red Cross Buildings", 32, Montieth Road,
Egmore, Chennai 600 008.
2.State Bank of India,
Rep by its Assistant General Manager,
Commercial Branch, 232, NSC Bose Road,
Chennai 600 001. : Respondent/Respondents/Respondents in Both
Civil Revision Petitions

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the order dated 08.12.2016, passed in I.A.No.2401 and 2398 of 2016 in S.A.Nos.423 and 424 of 2016, respectively on the file of the Debts Recovery Tribunal, Madurai, insofar as it directs the petitioners to make payment of a sum of Rs.5,00,000,000/- and Rs.10,00,000,000/- respectively each in two installments and allow the Civil Revision Petitions.

For Petitioner
<https://hcservices.ecourts.gov.in/hcservices/>

: Mr.V.Veerapandian
For M/s.Vastlaw Associates



For Respondents

: Mr.T.Govindasamy
Standing Counsel

COMMON ORDER

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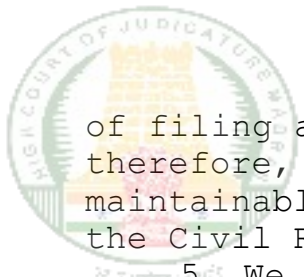
[Order of the Court was made by R.SUBBIAH, J.]

These Civil Revision Petition have been filed seeking to set aside the order dated 08.12.2016, passed in I.A.No.2401 and 2398 of 2016 in S.A.Nos.423 and 424 of 2016, on the file of the Debts Recovery Tribunal, Madurai, insofar as it directs the petitioners to make payment of a sum of Rs.5,00,000,000/- and Rs.10,00,000,000/- each in two installments.

2. The case of the petitioners is that being aggrieved by the E-Auction Sale Notice dated 02.11.2016, they preferred appeals in S.A.Nos.423 and 424 of 2016 before the Debts Recovery Tribunal. Pending appeals, the petitioners herein filed I.A.No.2401 and 2398 of 2016 under Section 19(25) of RDDBFI Act, seeking to grant interim stay of all further proceedings initiated in pursuance of E-Auction Sale Notice dated 02.11.2016. The Debts Recovery Tribunal, by order dated 08.12.2016, granted ad-interim injunction on condition that the petitioners shall make payment of a sum of Rs.5,00,000,000/- and Rs.10,00,000,000/- each in two installments. Aggrieved over the same, the present Civil Revision Petitions have been filed.

3. It is the main submission of the learned counsel for the petitioners that the subject properties being agricultural in nature, where the agricultural activities are going on, the first respondent bank cannot proceed against the same under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002, [for brevity "the SARFAESI Act"]. In fact, in this regard, according to the learned counsel, detailed arguments were advanced before the Debts Recovery Tribunal. However, without considering the same properly, the impugned order came to be passed. The learned counsel further submitted that in a similar circumstance, the Debts Recovery Tribunal, having accepted the submission made by the learned counsel for the petitioner therein that the properties in question are agricultural properties, which are exempted under Section 31(i) of the SARFAESI Act, directed the parties to maintain status-quo. However, it is not known as to why such a different yardstick has been followed in the case on hand alone. Thus, according to the learned counsel, ad-interim injunction granted by the Debts Recovery Tribunal on condition that the petitioners should make payment, as stated above, in two equal installments has to be set aside.

4. Per contra, the learned counsel appearing for the respondents bank, by filing a detailed counter affidavit, submitted that the petitioners failed to convince the Tribunal by placing revenue records to show that the scheduled mentioned properties are agricultural lands and that agricultural operations were being carried on in the properties at the time of mortgaging the properties with the respondents bank. The learned counsel further submitted that the petitioners have got effective alternative remedy



of filing an appeal before the Debts Recovery Appellate Tribunal and therefore, the present Civil Revision Petitions are not maintainable. Thus, the learned counsel sought for the dismissal of the Civil Revision Petitions.

5. We have considered the above submissions made on either side and we have gone through the materials available on record carefully.

6. In fact, along with Stay Petitions, the petitioners had also filed Interlocutory Applications seeking appointment of Advocate Commissioner to inspect the scheduled mentioned properties in order to ascertain the nature of the secured immovable properties. The said Interlocutory Applications are pending consideration before the Tribunal. Therefore, this Court is of the considered view that it would be appropriate for the petitioners to work out their remedy before the Debts Recovery Tribunal, seeking appointment of Advocate Commissioner in order to ascertain the nature of the secured immovable properties.

7. In the result, the Civil Revision Petitions are disposed of, directing the petitioners to work out their remedies before the Debts Recovery Tribunal seeking appointment of Advocate Commissioner in order to ascertain the nature of the secured immovable properties. The Debts Recovery Tribunal is directed to dispose of the Interlocutory Applications seeking appointment of Advocate Commissioner within a period of six weeks from the date of receipt of a copy of this order. Till such time, there shall be an order of status-quo to be maintained by the parties. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AOII)

/True Copy/

Sub-Assistant Registrar

To

The Debts Recovery Tribunal, Madurai.

COPY TO:

THE RECORD KEEPER,V.R.SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

+1 CC TO MR. R. GOVINDASAMY, ADVOCATE, SR NO.8824

+2 CC TO VAST LAW ASSOCIATES, SR NO.8856&8857

NB

MAS/SV-MMS:09.03.2017:2P/6C

COMMON ORDER MADE IN
C.R.P. [MD].Nos.61 and 62 of 2017
16.02.2017