



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.[MD].Nos.1280 and 1286 of 2016

and

C.M.P.(MD)Nos.8546 and 8547 of 2016

S.K.A.P.Vajravel : Petitioner in CRP(MD).No.1280 of 2016
Petitioner/Appellant

1.S.K.A.P.Balakrishnan,
S/o.S.K.A.Ponnusamy Nadar,
Partner : M/s.S.K.Ayyakalai Nadar & Sons,
Partner : M/s.S.K.A.Industries,
Partner : M/s.S.K.A.Ponnusamy Nadar Firm,
Partner : M/s.Sri Bala Sathya Gayathiri Oil Mills
46, NRT Cross Street, NRT Nagar, Theni,
Theni District.

2.B.Ramani,
W/o.S.K.A.P.Balakrishnan,
Partner : M/s.S.K.Ayyakalai Nadar & Sons,
Partner : M/s.S.K.A.Industries,
Partner : M/s.S.K.A.Ponnusamy Nadar Firm,
Partner : M/s.Sri Bala Sathya Gayathiri Oil Mills
46, NRT Cross Street, NRT Nagar, Theni,
Theni District.

3.B.Kishan Prasanna,
S/o.S.K.A.P.Balakrishnan,
Partner : M/s.S.K.A.P.Vajiravel,
46, NRT Cross Street, NRT Nagar, Theni,
Theni District. : Petitioners in CRP(MD).No.1280 of 2016
Petitioner/Appellant
Vs.

1.The Authorized Officer,
State Bank of India,
SME Branch, Periyakulam Road,
Theni.

2.The Authorized Officer,
State Bank of India,
Stress Assets Management Branch,
1112, Raja Plaza, Avinashi Road,
Coimbatore 641 037.



1.The Authorized Officer,
State Bank of India,
Raja Plaza, First Floor,
No.1112, Avinashi Road,
Coimbatore 641 037.

2.State Bank of India,
Rep by its Branch Manager,
SME Branch, Theni 602 277,
No.285, Periyakulam Road,
Theni 625 531.

: Respondents in CRP(MD).No.1286 of 2016
Respondents/Respondents

PRAYER CRP(MD).No.1280 of 2016 : Civil Revision Petition is filed under Article 227 of the Constitution of India as against the order dated 30.05.2016 passed in I.A.No.1097 of 2016 in S.A.No.89 of 2014, on the file of the Debts Recovery Tribunal, Madurai and to set aside the same insofar as it directs the petitioner to make payment of Rs.2 Crores each in two installments.

PRAYER CRP(MD).No.1286 of 2016 : Civil Revision Petitions are filed under Article 227 of the Constitution of India as against the order dated 30.05.2016 passed in I.A.No.1121 of 2016 in S.A.No.212 of 2016, on the file of the Debts Recovery Tribunal, Madurai and to set aside the same insofar as it directs the petitioners to make payment of Rs.2 Crores each in two installments.

CRP(MD).No.1280 of 2016

For Petitioner

: Mr.Veera Kathiravan,
Senior Counsel,
For Mr.M.Sridhar

For Respondent Nos.1 &2 : Mr.A.R.M.Ramesh

CRP(MD).No.1286 of 2016

For Petitioner

: Mr.Veera Kathiravan,
Senior Counsel,
For M/s.Vastlaw Associates

For Respondent Nos.1 &2 : Mr.A.R.M.Ramesh

For Proposed Respondents

Mr.G.Prabhu Rajadurai for R3

Mr.A.Sivaji for R4

Mr.P.Santhosh Kumar for R5

Mr.S.Manokaran for R7

No Appearance for R6

COMMON ORDER

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

The present Civil Revisions Petitions have been filed challenging the order, dated 30.05.2016, passed in I.A.No.1097 of 2016 in S.A.No.89 of 2014 and I.A.No.1121 of 2016 in S.A.No.212 of 2016, on the file of the Debts Recovery Tribunal, Madurai and to set aside the same insofar as it directs the petitioners to make payment of Rupees Two Crores each in two installments.

2. The main contention raised by the learned Senior Counsel for the petitioners in these Civil Revision Petitions is that the impugned order was passed by the Tribunal imposing onerous condition for the grant of ad-interim injunction, viz., payment of a sum of Rupees Two Crores each in two installments. It was made clear in the said order that in the event of failure on the part of the petitioners to pay any of the installments, the interim injunction granted shall stand vacated and that thereafter, the respondent was at liberty to proceed with the secured assets as per law. The said condition imposed by the Tribunal, according to the learned Senior Counsel, cannot be sustained in law and contrary to legal principles. The Tribunal has passed the impugned order, without appreciating the fact that the respondent bank has not followed the SARFAESI Rules, before bringing the properties for sale. Thus, according to the learned Senior Counsel, the impugned order passed by the Tribunal is liable to be set aside.

3. The learned counsel for the respondents vehemently opposed the prayer of the petitioners stating that the properties mortgaged with the respondent bank had already been sold and the sale certificate was also issued and moreover, the petitioners are having an alternative remedy before the Debts Recovery Tribunal. Therefore, the Civil Revision Petitions are liable to be dismissed.

4. In our considered view, when the petitioners are having an alternative remedy, this Court is not inclined to entertain the present Civil Revision Petitions. However, after hearing the submissions made by the learned counsel on either side, this Court is inclined to pass the following order:

- The petitioners are directed to approach the Debts Recovery Tribunal by filing an appropriate application, within a period of one week from today and on filing of such application, the Debts Recovery Tribunal is directed to consider and dispose of the same on merits and in accordance with law, within a period of two weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the merits of the matter by the Debts Recovery Tribunal, the respondents are directed to maintain status quo as on date.



5. The Civil Revision Petitions stand disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Debts Recovery Tribunal, Madurai.

+1cc to Mr.M.Sridhar,Advocate,sr no 5358

+1cc to M/s.Vastlaw Associates,sr no 5357

+1cc to Mr.A.R.M.Ramesh,Advocate,sr no 5466

+1cc to Mr.A.Sivaji,advocate, sr no 5391

+2cc to Mr.G.Prabhu Rajadurai,Advocate sr nos 5618,5619

nb

ms/rsk/sar1/3.2.2017/4p.8c

COMMON ORDER MADE IN
C.R.P.[MD].Nos.1280 and 1286 of 2016
and
C.M.P. (MD)Nos.8546 and 8547 of 2016
Dated: 01.02.2017