



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.[MD].No.11301 of 2017

and

W.M.P(MD).Nos.8684 and 8685 of 2017

G.K.Steel & Allied Industries Ltd.,
Trichy Road, Thamaraipadi
Dindigal 624 005
Represented by its Director
K.Narayanasamy

: Petitioner

Vs.

IFCI Limited
Represented by its Authorised Officer
Continental Chambers
No.142, Mahatma Gandhi Road
Nugambakkam, Chennai 600 034.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the 1st respondent in No.IFCI/CHERO/Legal/2017 dated 24.04.2017 and the impugned proceedings issued under Section 13(2) of SARFAESI Act dated 15.11.2016 published in Dinathanthi, Coimbatore Edition dated 09.02.2017, quash the same and consequently direct the respondent herein to accept the One Time Settlement amount with simple interest from petitioner and discharge the petitioner from the loan outstanding and release the properties of the petitioner under mortgage by issuing Certificate of No Dues.

For Petitioner : Mr.Veerakathiravan
Senior Counsel
For M/s.Veera Associates

O R D E R

[Order of the Court was made by T.S.SIVAGNANAM, J.]

<https://hcservices.courts.gov.in/hcservices/>
For M/s.Veera Associates, learned Senior Counsel for
M/s.Veera Associates, for the petitioner.



2. This Writ Petition has been filed challenging a notice issued by the respondent under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, [for brevity "the SARFAESI Act"], dated 15.11.2016 and the reply received by the petitioner in response to their objection from the respondent dated 24.04.2017.

3. The learned Senior Counsel for the petitioner submitted that the impugned notice issued under Section 13(2) of the SARFAESI Act is without jurisdiction, since the account of the petitioner is yet to be declared as "non-performing asset" and therefore, question of invoking Section 13(2) of the SARFAESI Act does not arise. It is further submitted that the petitioner is ready and willing to comply with the One Time Settlement proposal, as the respondent has stated that they will extend the One Time Settlement proposal on payment of interest. Further, it is submitted that the impugned notice issued under Section 13(2) of the SARFAESI Act is barred by limitation.

4. We find that the One Time Settlement has been revoked by the respondent by way of proceedings dated 15.11.2016. Further, it is not in dispute that already, original application has been filed before the Debts Recovery Tribunal, Chennai, for recovery of the Dues and the same is pending. Furthermore, all the proceedings, which were referred to by the learned Senior Counsel, are all much prior to the the year 2013. In any event, as against the impugned notice issued under Section 13(2) of the SARFAESI Act, the petitioner has effective remedy under the provisions of the SARFAESI Act and there is no justification for the petitioner to bye-pass such a remedy.

5. Thus, for the above reasons, the Writ Petition is not maintainable and accordingly, the Writ Petition is dismissed. However, it is made clear that the petitioner is at liberty to raise all the issues before the appropriate forum. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

The Authorised Officer, IFCI Limited,
Continental Chambers, No.142, Mahatma Gandhi Road,
Nugambakkam, Chennai 600 034.

NB

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ORDER MADE IN

W.P.[MD].No.11301 of 2017

19/06/2017