BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.12061 of 2017
and
W.M.P.(MD).No.9287 of 2017

P.Gurusamy .. Petitioner

Vs.

The Authorized Branch Manager,
UCO Bank,
Rajapalayam Branch,
806A, Tenkasi Road,
Rajapalayam -626 117,
Virudhunagar. .. Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the rejection order passed in I.A.S.R.No.4551 of 2017 in I.A.No.483 of 2017 in S.A.No.92 of 2017 by the Learned Debt Recovery Tribunal, Madurai on 24.06.2017 and quash the same and consequently direct the Debt Recovery Tribunal to number in I.A.S.R.No.4551 of 2017 in I.A.No.483 of 2017 in S.A.No.92 of 2017.

For petitioner : Mr.M.Ramu
For respondent : Mr. K.Periya Samy

O R D E R
****
[Order of the Court was made by G.R.SWAMINATHAN, J.]

The writ petitioner had borrowed certain sum of money from the respondent bank. He committed default and his account came to be declared as "non-performing asset" [NPA]. The respondent bank, therefore, initiated proceedings against the writ petitioner under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, [for brevity "the SARFAESI Act"].

2. The writ petitioner filed S.A.No.92/2017 before the Debts Recovery Tribunal, Madurai, in which, an interim order was

granted. Seeking extension of time to comply with the condition imposed in the interim order, the writ petitioner took out an application. The Tribunal took a view that sufficient time was granted to the writ petitioner to pay the amount and it was stipulated in the order made in I.A.No.483/2017 that if the writ petitioner did not pay the amount in installments, the ad-interim stay granted against the respondent bank will stand vacated automatically. In other words, the Tribunal took a view that if such an application is entertained for extension of time, then the above order with regard to automatic cessation of ad-interim injunction would get nullified.

3. In that view of the matter, the Tribunal rejected the application filed by the writ petitioner. This rejection order dated 24.06.2017 in I.A.S.R.No.4551/2017 in I.A.No.483/2017 in S.A.No.92/2017 is challenged in this writ petition.

4. This Court granted interim order subject to the condition that the writ petitioner would make the payment, which he was originally ordered to make. Today, the learned counsel appearing for the writ petitioner stated that the petitioner paid the amount in question. This was confirmed by the learned counsel appearing for the respondent bank also. Since the writ petitioner showed his *bono fides* by complying with the conditions originally imposed, we are of the view that to meet the ends of justice, the order impugned in the writ petition has to be set aside.

5. In the result, the impugned order is set aside and the Writ Petition is allowed. The parties are now relegated to work out their remedies before the Debts Recovery Tribunal, Madurai. As a result of allowing the present Writ Petition, I.ANo.483/2017 in S.A(MD).No.92/2017 would stand revived. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub-Assistant Registrar

+One cc to M/s.PT.S.Narendravasan, Advocate, SR.No.74356
+One cc to Mr.M.Ramu, Advocate, SR.No.74469

km
RL/3C/2P/SV/MMS/SAR1/15/9/2017

ORDER MADE IN
W.P.(MD)No.12061 of 2017
23/08/2017