



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].Nos.1800 and 1801 of 2017

and

W.M.P.(MD)Nos.1492, 1493, 1494 and 1495 of 2017

M/s.KMB Marbles and Granites India Private Ltd.,
No.4/59, Bharathi Street,
Swarnapuri, Five Roads,
Salem-636 004,
Rep. by its Managing Director,
Mr.K.Yusuf Basha

: Petitioner in W.P.[MD].No.1800 of 2017

M/s.KMB Granite Enterprises Private Ltd.,
No.4/59, Bharathi Street,
Swarnapuri, Five Roads,
Salem-636 004,
Rep. by its Managing Director,
Mr.K.Yusuf Basha

: Petitioner in W.P.[MD].No.1801 of 2017

Vs.

1.The Debts Recovery Tribunal,
Madurai Bench,
4/162, Kalyani Towers,
Melur Road, Madurai.

2.The Authorized Officer/Chief Manager (Adv),
Region IV, Coimbatore,
State Bank of Trivancore,
Regional Office, 260, V.V.Complex,
Avarampalayam Road, New Siddhapudur,
Coimbatore-641 044,
And Inter alia its Branch at
No.9, Rajaji Road, Hasthampatty Post,
Salem-636 007. : Respondents in both W.Ps.



auction sale publication made in the New Indian Express, dated 03.01.2017 and to quash the same and to consequently, direct the respondent bank to strictly comply with the legal procedure under relevant provisions of the SARFAESI Act.

For Petitioner in both WPs : Mr.Akhil Akbar Ali
For Respondent No.2 in both WPS : Mr.S.Devaraj

COMMON ORDER

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

The Writ Petitions have been filed seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent bank relating to E-auction sale publication made in the New Indian Express, dated 03.01.2017 and quash the same and consequently, direct the respondent bank to strictly comply with the legal procedure under the relevant provisions of the SARFAESI Act.

2. The main contention raised by the petitioner in these Writ Petitions is that the notice under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002 was issued on 02.01.2017 and it was received by the petitioner only on 05.01.2017. In the said notice, as per Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, the petitioner was given 30 days time from the date of receipt of the notice to repay the amount demanded. Therefore, as per the notice, auction has to be conducted only after a period of 30 days from the date of receipt of notice, whereas, E-Auction sale notice dated 03.01.2017 was issued fixing the auction on 03.02.2017, i.e., even before the expiry of 30 days from the date of receipt of notice by the petitioner on 05.01.2017. Thus, the learned counsel prays for quashing of the impugned auction notice.

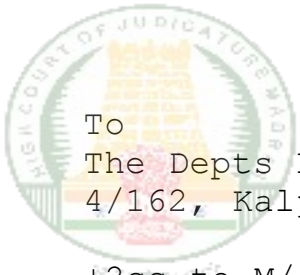
3. However, the learned counsel for the second respondent submits that the petitioner has already initiated proceedings before the Debts Recovery Tribunal, Madurai and the same is pending as S.A.No.451 of 2015.

4. Considering the facts and circumstances of the case and also the fact that S.A.No.451 of 2015 is pending before the Debts Recovery Tribunal, Madurai, the Writ Petitions are disposed of, by giving liberty to the petitioner to raise all the grounds including the grounds raised herein, before the Tribunal in the pending S.A.No.451 of 2015. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/



To
The Depts Recovery Tribunal, Madurai Bench,
4/162, Kalyani Towers, Melur Road, Madurai.

+2cc to M/s.Akhil Ali, Advocate SR.No.5649 & 5650/17

+2cc to M/s.S.Devaraj, Advocate SR.NO.5585 & 5586/17

sml

sm:PM-PN:SAR 1:03/02/2017:3P/6C

Common Order made in
W.P.[MD].Nos.1800 and 1801 of 2017
Dated: 02.02.2017