



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD) Nos.23806, 23807 & 23808 of 2016

and

W.M.P. (MD) Nos.17150, 17151, 17152 & 17153 of 2016

M/s.Baarath Fruits

rep.by its Proprietor Palvannan

118, R.P.Nagar, Sukkangalpatty

Theni-625 540

... Petitioner in W.P. (MD)
No.23806 of 2016

M/s.Varsha Fruits

rep.by its Proprietrix Eswari

118, R.P.Nagar Sukkangalpatty

Theni-625 540

... Petitioner in W.P. (MD)
No.23807 of 2016

M/s.R.P.Fruits International

rep.by its Proprietor Palvannan

118, R.P.Nagar Sukkangalpatty

Theni-625 540

... Petitioner in W.P. (MD)
No.23808 of 2016

-vs-

1.The Deputy General Manager

Loan and Asset Recovery

The Federal Bank Ltd.,

1st Floor, Federal Heights

Aluva, Kerala

2.The Asset Recovery Branch

The Federal Bank Ltd.,

No.57, Royapettah High Road

Chennai-600 014

3.The Authorized Officer under

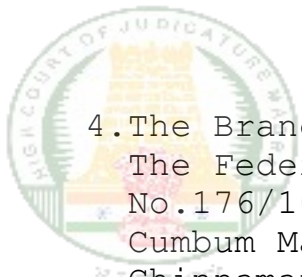
SARFAESI Act

The Federal Bank Ltd.,

No.176/10, APK Complex

Cumbum Main Road

<https://hcservices.ecourts.gov.in/hcservices/>
Chinnamanur, Theni District



4. The Branch Manager
The Federal Bank Ltd.,
No.176/10, APK Complex
Cumbum Main Road
Chinnamanur, Theni District

... Respondents in all W.Ps.

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PRAYER (in W.P.(MD) No.23806 of 2016) : Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned notice, dated 20.11.2016, passed by the fourth respondent and further direct the respondents to consider the representation of the petitioner, dated 29.11.2016.

PRAYER (in W.P.(MD) No.23807 of 2016) : Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned notice, dated 20.11.2016, passed by the fourth respondent and further direct the respondents to consider the representation of the petitioner, dated 29.11.2016.

PRAYER (in W.P.(MD) No.23808 of 2016) : Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned notice, dated 20.11.2016, passed by the fourth respondent and further direct the respondents to consider the representation of the petitioner, dated 29.11.2016.

For Petitioners	:	Mr.C.Muthusaravanan
(in all W.Ps.)		
For Respondents	:	Mr.R.Pandivel
(in all W.Ps.)		Standing Counsel

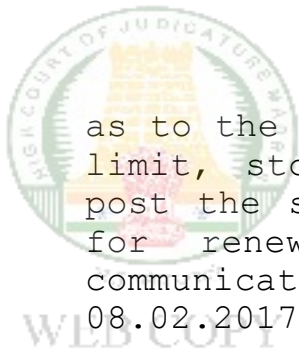
C O M M O N O R D E R

(Order of the Court by **T.S.SIVAGNANAM, J.,**)

Since the issue involved in all the writ petitions are identical and the prayer sought for are similar, they were clubbed together, heard and are being disposed of by this common order.

2. The petitioners are before this Court challenging the notices, dated 20.11.2016, issued by the fourth respondent and to direct the respondents to consider their representations, dated 29.11.2016.

3. The undisputed fact is that the petitioners, who are borrowers of loan from the respondent - Bank, have miserably defaulted in repayment rendering their accounts as "NPA". When action was initiated by the respondent - Bank, by invoking the provisions of SARFAESI Act, the petitioners came forward to settle their loan, vide letter, dated 31.12.2016. The respondent - Bank examined their proposal and informed them to submit a viable plan



as to the amount that would be brought in by them for reducing the limit, stock / bills receivable that they would be maintaining post the sale of ripening unit and to submit necessary documents for renewing the accounts. In furtherance to the said communication, the petitioners submitted their fresh proposals on 08.02.2017 and 28.02.2017 to the respondents.

4. The learned Standing Counsel appearing for the respondent - Bank submitted that these fresh proposals are pending consideration before the respondent - Bank and decision will be taken by the end of this month (April, 2017). It is further submitted that the impugned notices are not notices assigning debts, but only letters appointing recovery agent, which the respondent - Bank is entitled to do so as per R.B.I.Circular, dated 24.04.2008.

5. Heard Mr.C.Muthusaravanan learned counsel appearing for the petitioners and Mr.R.Pandivel, learned Standing Counsel appearing for the respondent - Bank and carefully perused the materials placed on record.

6. We are of the clear view that it is not a case of assigning of debt, but it is only a case of nominating recovery agent among the recovery agents maintained by the respondent - Bank. Therefore, there can be no illegality in the said impugned notices.

7. Considering the fact that the petitioners have given fresh proposals and they are pending consideration, we direct the respondent - Bank to consider their proposals and pass appropriate orders on merits and in accordance with law as expeditiously as possible and communicate the decision taken to the petitioners forthwith. Until a final decision is taken on the petitioners' fresh proposals, no coercive action shall be taken against them. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

+1 CC to M/s.R.PANDIVEL, Advocate, SR No. 51918

+1 CC to M/s.C.MUTHU SARAVANAN, Advocate, SR No.51921

KRK/SKM

PSM/SV-MMS/SAR4/26.04.2017/3P/3C

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