



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P. (MD) No.13965 of 2013
and
M.P. (MD) Nos.1 to 3 of 2013

X.John Kennedy,
Sole Proprietor,
M/s.J.K.Products,
No.38, North Masi Street,
Madurai-625 001.

: Petitioner

Vs.

The Authorized Officer,
Indian Bank, Thallakulam Branch,
No.73, Alagar Kovil Road,
Madurai-625 020.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the proceedings initiated by the respondent bank under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act ending up with tender cum auction sale notice dated 11.07.2013 published in English daily the Indian Express on 12.07.2013.

For Petitioner : Mr.Xavier Rajini,
For Mr.V.Veerapandian

For Respondents : Mr.R.Pandivel
For Proposed Respondent : Mr.S.Raja Jeya Chandra Paul

O R D E R

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

The present Writ Petition has been filed to quash the proceedings initiated by the respondent bank under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act ending up with tender -cum- auction sale notice dated 11.07.2013 published in English Daily 'the Indian Express' on 12.07.2013.



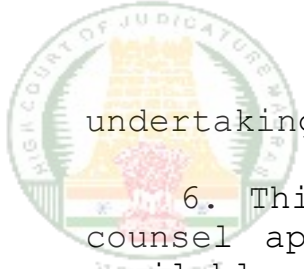
2. The case of the petitioner is that he is the sole Proprietor of M/s.J.K.Product, engaged in the business of manufacturing Mosquito Coil. During the course of business, the petitioner's concern availed cash credit limit for a sum of Rs.60,00,000/- and term loan for a sum of Rs.47,70,000/- from the respondent bank, Thallakulam Branch, Madurai. Subsequently, the petitioner incurred heavy loss in the business and hence, his loan account was declared as non-performing assets and proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act was initiated. At the first instance, the respondent bank brought the petitioner's factory premises at Mahia Industrial Estate at Urankanpatti, Madurai-20, for sale. Challenging the same, the petitioner filed an appeal in S.A.No.111 of 2011 and the same is pending before the Debts Recovery Tribunal, Madurai. Challenging the appeal and also the order passed by the Tribunal in I.A.Nos.288, 289 and 290 of 2013 in S.A.No.111 of 2011, the auction purchaser filed four Civil Revision Petitions before this Court and also obtained an order of interim stay of further proceedings in S.A.No.111 of 2011. When that being so, the respondent bank, by impugned tender -cum-auction sale notice dated 11.07.2013, brought the machinery and other movables for sale. The petitioner also filed interlocutory application in the pending appeal in S.A.No.111 of 2011. However, the Tribunal, citing the interim order passed by this Court in the Civil Revision Petition filed by the auction purchaser, declined to pass any order in the application and directed him to seek appropriate relief before this Court. Hence, the petitioner is before this Court with the present Writ Petition.

3. When the matter came up for hearing on 23.08.2013, this Court granted an order of interim stay of auction, recording the undertaking given by the petitioner in the additional affidavit, more particularly, in paragraph No.10, which reads thus:

"I submit that I undertake to pay a sum of Rs.1,00,000/- on or before 30.08.2013 and I undertake to pay further a sum of Rs.1,00,000/- on or before 15.09.2013 and I undertake to pay another Rs.1,00,000/- on or before 30.09.2013. I undertake to pay a further sum of Rs.1,00,000/- on or before 15.10.2013 and I undertake to pay remaining balance amount Rs.1,85,000/- on or before 15.11.2013."

4. Now, the learned counsel for the petitioner submits that the petitioner has paid the entire amount as undertaken earlier. Therefore, he prayed for quashing of the impugned notice.

5. The learned counsel for the respondent bank has also confirmed the fact that the petitioner has complied with the



undertaking given by him earlier.

6. This Court considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record. A perusal of the notice impugned in this Writ Petition would go to show that the period for sale mentioned in the impugned notice came to an end and thus, the relief sought for in the Writ Petition has become infructuous. Therefore, the Writ Petition is closed. It is needless to state that the petitioner can work out his remedy before the Debts Recovery Tribunal in the pending appeal in S.A.No.111 of 2011. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

+1 cc to M/s.S.Raja Jeya Chandra Paul, Advocate in SR.No. 590/17

Order made in
W.P. (MD)No.13965 of 2013
Dated: 02.01.2017

SML

CSL/SS2-KSM/24.01.2017 : 3P/2C