

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.3142 of 2014
and
M.P.Nos.1 and 2 of 2014

1.S.Ganesan
2.G.Gomathi .. Petitioners

Vs.

1.Kotak Mahindra Bank Ltd.,
having its registered Office at
36-38A, Nariman Bhavan,
227, Nariman Point, Mumbai-400 021.
2.Citi Financial Consumer Finance India Ltd.,
having its registered Office at
3, Local Shopping Complex,
Pushp Vihar, New Delhi-110 062. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Notice U/s.13(2) of the SARFAESI Act 2002 dated 03.12.2013 on the file of the 1st respondent and quash the same and consequently, direct the respondents to receive the monthly installments due under Loan Account Nos.5662574 & 5739469 from March 2013 only in accordance with the terms and conditions of the Loan Agreement dated 25.05.2005 entered by the 2nd respondent with them till the last monthly installment payable by them on 05.06.2020 and in default, to initiate legal proceedings only in accordance with the method of recovery prescribed in the said Loan Agreement dated 25.05.2005.

For Petitioners: Mr.T.M.Naveen
for Mr.K.P.Jotheswaran

For R1 : Mr.P.Rajendran
for Mr.V.Jayachandran

For R2 : Not ready in notice

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Petitioners have sought for a Writ of Certiorari Mandamus, calling for the records relating to Notice under section 13(2) of the SARFAESI Act 2002 dated 03.12.2013 on the file of the 1st respondent, quash the same and consequently, for a direction to the respondents to receive the monthly installments due under Loan Account Nos.5662574 & 5739469 from March 2013 in accordance with the terms and conditions of the Loan Agreement dated 25.05.2005 entered by the 2nd respondent with them till the last monthly installment payable by them on 05.06.2020 and in default, to initiate legal proceedings only in accordance with the method of recovery prescribed in the said Loan Agreement dated 25.05.2005.

2. On this day, when the matter came up for hearing Mr.T.M.Naveen, learned counsel for the petitioners submitted that the matter has been settled and seeks time to get written instructions. Be that as it may, as per the decision of the Hon'ble Supreme Court in Mardia Chemicals Ltd., and others Vs. Union of India and others reported in (2004) 4 SCC 311, challenge to the notice under Section 13(2) of the SARFAESI Act, 2002, is not maintainable.

3. In view of the above judgment, the writ petition is dismissed. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते Assistant Registrar (CS-II)

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WEB COPY Sub Assistant Registrar

dm

+ 1 cc to MR.K.P. Jotheeswaran, Advocate SR. 20003

W.P.No.3142 of 2014

and

M.P.Nos.1 and 2 of 2014

BR (CO)

EU (05/04/2018)

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