

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/6/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition Nos.11709 and 12192 of 2018

Sri Vakirakaaliamman Spinning
Mills Pvt Ltd.,
Shri.R.Jagadeeshwaran
Director/Guarantor
No.14 R.M.Illam
Thennampalayam Extension Cross Street
Tiruppur 641 604.

... Petitioner in both
the petitions

Vs

1. State Bank of India
rep. By its Authorised Officer
Stressed Assets Management Branch
1112 Raja Plaza
Avinashi Road
Coimbatore 641 037.
2. Punjab National Bank
rep. By its Authorised Officer
Asset Recovery Management Branch
No.448 A, Dr.Nanjappa Road
Coimbatore 641 018.
3. State Bank of India
rep. By its Authorised Officer
(Formerly State Bank of Hyderabad)
Stressed Assets Management Branch
1112 Raja Plaza, Avinashi Road
Coimbatore 641 037.
4. State Bank of India
rep. By its Authorised Officer
(Formerly State Bank of Patiala)
Stressed Assets Management Branch
1112 Raja Plaza, Avinashi Road
Coimbatore 641 037.

... Respondents in both
the petitions

Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of certiorarified mandamus, to call for the records of the respondents herein, in AIR No.78 of 2018 before the DRAT, Chennai, dated 10/4/2018 and 9/3/2018 are illegal and quash the same and consequently direct the respondents to revalue all the properties which were brought to auction.

For petitioner ...Mr.Rajendra Prasad

For respondents ... Mrs.S.R.Sumathy
for R.R.1, 3 and 4

Mr.M.L.Ganesh
for R.2.

C O M M O N O R D E R

(Order of the Court was made by SUBRAMONIUM PRASAD, J
Writ Petitions have been filed challenging the orders, dated 10/4/2018 and 9/3/2018, passed by the Debts Recovery Appellate Tribunal, Chennai, in AIR (SA) No.78 of 2018 and for a further direction to the respondents to revalue all the properties which were brought to auction.

2. Impugned order, dated 9/3/2018, reads as follows:-

Ld. Counsel Mr.K.Rajendra Prasad for appellant present.

Appellant counsel prays for time for compliance of office objection within two weeks.

Record reveals that State Bank of India and Punjab National Bank both have issued notices for recovery of Rs.21 crores each long back. Hence appellant is directed to make a deposit of Rs.12 crores with the Registrar of this Tribunal on or before 6/4/2018.

List for compliance of office objection/pre-deposit of Rs.12 crores on 6/4/2018.

It is made clear that all IAs will be decided after service of notice on the next date of listing.

List on 6/4/2018."

3. Order, dated 10/4/2018, reads as follows:-

"Ld. Counsel Mr.P.Hari Vettriselvan representing ld. counsel Mr.K.Rajendra Prasad for Appellant present.

Order of pre-deposit has not been complied with.

Appellant counsel prays for extension of time.

DRAT cannot entertain any appeal without ensuring the pre-deposit. No good ground is made out for extension of time.

Hence Appeal is dismissed for want of compliance of pre-deposit."

4. Heard Mr.Rajendra Prasad, learned counsel for the petitioner, Mrs.S.R.Sumathy, learned counsel for R.R.1, 3 and 4 and Mr.M.L.Ganesh for R.2.

5. Going through the materials on record, we are of the view that order of the Tribunal is a non-speaking order. The Tribunal, as a final fact finding authority, is obligated to record the facts, submissions, discuss the evidence and to pass orders, with reasons.

6. The impugned order does not record the submissions nor does it give any reason to reject the same. In view of the above, impugned orders, dated 9/3/2018 and 10/4/2018, passed in AIR No.78 of 2018, are set aside and the appeals are remanded back, to the Debts Recovery Appellate Tribunal, Chennai, for consideration, on merits and in accordance with law, within a period of two weeks, from the date of receipt of a copy of this order.

7. The petitioner has also prayed for a consequential direction, to direct the respondents, to revalue all the properties, which were brought for auction. Such a prayer is not maintainable, and cannot be granted and is liable to be dismissed.

8. This Court on 9/5/2018, while entertaining the writ petition, ordered as under:-

"Any sale of the property shall be subject to further orders of this Court in the writ petition."

9. Interim order granted on 9/5/2018, stands vacated. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Authorised Officer
State Bank of India
Stressed Assets Management Branch
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2. The Authorised Officer
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Asset Recovery Management Branch
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Coimbatore 641 037.

+1cc to Mr.Rajendra Prasad, Advocate in sr.no.37768

+2cc to Mrs.S.R.Sumathy, Advocate in sr.no.38023 & 38022

+1cc to M/s.M.L.Ganesh, Advocate sr.no.37624

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nr 21/06/2018

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