IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.03.2018
CORAM:
THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.7766 of 2014
and
M.P.Nos.1 of 2014 & 1 of 2015

M/s.Guna Cabinets,
Rep. by its Managing Partner,
S.Ramesh ... Petitioner

vs.

1. The Chief Manager-cum-Authorized Officer,
Andhra Bank,
Coimbatore Main Branch,
No.17, Mill Road,
Coimbatore - 641 001.

2. Andhra Bank,
Zonal Office,
Andhra Bank Building,
No.168, Lingi Chetty Street,
Chennai. ... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorari, calling for the records of the first respondent in issuance of the notice in Lr.N0.083/45/723 dated 27.02.2014 and quash the same.

For Petitioner : Mr.C.Karthik
for Mr.A.Kalaivanan

For Respondents : Mr.R.Gowthama Narayanan
(for R1 & R2)

ORDER

(Order of the Court was delivered by S.MANIKUMAR, J)

Impugned proceeding of the Chief Manager-cum-Authorised Officer, Andhra Bank, Coimbatore Branch dated 27.02.2014, is extracted hereunder.

"Dear Sirs,
Re: Defaults in your Loan accounts - Exercise of Bank's right to seize and sell stocks of Raw material, Stock in Process, semi Finished Goods and

Finished Goods under Hypothecation and adjust to your loan account.

Ref: Your OCC A/c and Term Loan A/cs

We write to bring it to your notice that the various loans availed by your firm have become NPA as you have not serviced interest and installments of the respective loan accounts.

The latest liabilities of various credit facilities availed by your firm are as follows:

FACILITY	EXISTING LIMIT (Rs.)	O/S AS ON 07.02.2014	Security Offered
OCC	7,50,00,000	790,09,027.81	* As per the details furnished below
TL	1,45,50,000	127,87,747.00	
WCDL	1,54,40,000	158,25,693.00	
TL	57,00,000	44,96,490.99	
Total	11,06,90,000	1121,18,958.80	

In addition to mortgaging the immovable properties in favour of Bank, all stocks of Raw Material / Work in Progress / Finished goods available at your units at Chokkampudur, Coimbatore and at Pandian Nagar, Tiruppur are hypothecated to our Bank for the credit facilities availed by your firm.

As per terms and conditions of Sanction letter no.0083/52/A-225/S558/A2013-14 dtd 28.12.13 of Open Cash Credit facility accepted by you and Composite Agreement dated 31.12.2013 executed by your firm and its partners, all stocks of Raw material, Semi Finished goods and Finished goods are held as primary security and hypothecated to our Bank. Since you have defaulted in repaying the loan, your accounts have been classified as NPA and you are liable to pay sum of Rs.11,21,18,958.80 (Rupees Eleven Crores Twenty One Lakhs Eighteen Thousand Nine Hundred and Fifty Eight only) as on 07.02.2013 with subsequent interest. You are hereby called upon to pay an amount of Rs.11,21,18,958.80 (Rupees Eleven Crores Twenty One Lakhs Eighteen Thousand Nine Hundred and Fifty Eight only) within Fifteen days from date of receipt of this notice, failing which, as per the right of hypothecatee we would seize all the stocks of raw material, semi finished goods and finished goods at your units at Chokkampudur, Coimbatore and at Pandian Nagar, Tirupur to sell them and the proceeds of which shall be credited to your loan accounts.

You are advised not to shift or move or dispose or in any other way alienate any stock of raw material, stock in process, semi finished goods and Finished goods from the place of work or godown from the date of the receipt of this notice and be noted that bank would dispose or sell the stock immediately after fifteen days from the receipt of this notice in the event of your failure to pay loan liability of Rs. (Rupees Eleven Crores Twenty One Lakhs Eighteen Thousand Nine Hundred and Fifty Eight only)."

2. Record of proceedings shows that while ordering notice through Court and privately, a Hon'ble Division Bench of this Court, vide order dated 18.03.2014, has stayed the impugned notice. Stay has been extended periodically.

3. Chief Manager-cum-Authorised Officer, Andhra Bank, Coimbatore Main Branch in his affidavit dated 19.02.2015, at paragraph No.5, has stated that to avoid delay in recovery, bank has not pursued any action on the basis of the impugned notice dated 27.02.2014 and hence, bank withdraws the said notice without prejudice to the rights to enforce the securities in accordance with law. For brevity, paragraph No.5, of the affidavit dated 19.02.2015, filed by the Chief Manager-cum-Authorised Officer, Andhra Bank, Coimbatore Branch, in support of M.P.No.1 of 2015 in M.P.No.1 of 2014 in W.P.No.7766 of 2015 filed to vacate the order dated 18.03.2014, is reproduced.

"5. I state that in order to avoid delay in recovery we are not pursuing the action in pursuance of notice dated 27.02.2014. Hence we hereby withdraw the notice dated 27.02.2014 issued to the respondent, which is impugned in the Writ Petition, without prejudice to our rights to enforce the securities in accordance with law."

4. In view of the above, nothing remains for adjudication. Writ petition is dismissed. No costs. M.P.Nos.1 of 2014 and 1 of 2015, are closed.

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Sd/-
Assistant Registrar (CS VIII)

/TRUE COPY/

Sub-Assistant Registrar

+1CC to MR.A.KALAIVANAN Advocate SR.NO.17715
+1CC to MR.S.R.GOWTHAMA NARAYANAN Advocate SR.NO.18145

W.P.No.7766 of 2014
and
M.P.Nos.1 of 2014 & 1 of 2015

KJI[CO]
MK:26/03/2018