BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

C.R.P.(MD) No.516 of 2018
and
C.M.P.(MD) No.2263 of 2018

M/s.Marutee Agro Foods,
rep. by its Managing Partner
Mrs.M.Rajalakshmi ... Petitioner

-vs-

1.The District Magistrate/The District Collector,
O/o.The District Collector,
Trichy District, Trichy.

2.The Authorised Officer,
Central Bank of India,
Srirangam Branch, Tricy. ... Respondents

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the order dated 15.01.2018 and consequent order dated 01.02.2018 made in I.A.No.2543/2017 in S.A.No.505 of 2017 on the file of the Debts Recovery Tribunal, Madurai.

For Petitioners : Mr.R.Sriram

O R D E R
(Order of the Court was made by T.S.SIVAGNANAM, J.)

Heard Mr.R.Sriram, learned counsel for the petitioner.

2.We are inclined to dispose of this civil revision petition as we find that the procedure adopted by the Debt Recovery Tribunal while deciding the interlocutory application is not proper. Therefore, we deem it appropriate that notice to the second respondent bank need not be issued.

3.The petitioner has filed S.A.No.505 of 2017 on 18.12.2017, praying for a declaration to declare the order dated 28.11.2017 passed by the District Collector under Section 14 of SARFAESI Act is illegal and invalid; to declare the possession and all other actions taken under the SARFAESI Act by the 1st respondent bank with regard to the suit property as wrongful, illegal and invalid; to direct the respondent bank to restore the possession of the secured asset to the petitioner/applicant; to direct the respondent bank to consider the petitioner's/applicant's request of settling the loan account under One Time Settlement as per the prevailing guildelines framed by the Reserve Bank of India and award compensation of Rs.20 lakhs and cost and may be determined by the Tribunal as adequate reparation to the petitioner/applicant.

4.In the said SARFAESI appeal viz., S.A.No.505 of 2017, the petitioner has filed stay petition in I.A.No.2543 of 2017, praying for an order of stay of the order passed by the District Collector dated 28.11.2017. In the affidavit filed in support of the petition, the petitioner has pointed out that the order has been passed by the District Collector, when the OTS proposal was pending and when the intending purchaser was ready to deposit 25% of the OTS amount of Rs.241 lakhs in a non lien account of the purchaser maintained in the respondent bank and ready and willing to pay the remaining 75% of the OTS amount immediately after the receipt of the OTS sanction letter issued.

5.The petitioner contended that the order under Section 14 of the Act is illegal and invalid. Further it is contended that if the property is sold, it will fetch only 1/3rd of the original value, which is more than Rs.9 Crores and therefore, the petitioner prayed for grant of an order of interim stay contending that they have made out the prima facie case and the balance of convenience is in their favour and if interim stay is not granted, irreparable loss would be caused to the petitioner. The said stay petition in I.A.No.2543 of 2017 is still pending. When the case came up before the Debt Recovery Tribunal on 15.01.2018, the Tribunal, after hearing the learned counsel for the petitioner and the learned counsel for the bank, directed notice to be sent to the District Collector.

6.It appears that the learned counsel for the petitioner prayed before the Tribunal to grant an order of status-quo pending disposal of the stay petition in I.A.No.2543 of 2017. The Tribunal has observed that there are no valid reason to grant an order of status-quo and directed the respondents to file counter and posted the case for disposal on 01.02.2018. After the said hearing on 15.01.2018, the intending purchaser has given a letter to the District Collector stating that they have deposited a sum of Rs.2 lakhs with the Central Bank, Machingal Lane Branch, Thrissur, Kerala on 19.01.2018 as advance and further finance advancement would be fulfilled by 28.02.2018 as promised earlier. Along with the letter, they enclosed bank statement dated 20.01.2018. It is not known as to what happened to the said representation given before the District Collector. In the meantime, the respondent bank has filed their counter affidavit in the main appeal and the case was heard on 01.02.2018 and on the said date, the Tribunal has recorded that notice has not been sent to the District Collector and directed the Registry of the Tribunal to send notice to the District Collector and private notice was also permitted. The Tribunal recorded that the respondent bank has filed counter affidavit in the main SARFAESI appeal and adjourned the case to 28.08.2018 for filing counter in the stay petition in I.A.No.2543 of 2018 and for the hearing of the District Collector. In the meantime, the Tahsildar has issued proceedings dated 02.02.2018 to take possession of the property.

7.The petitioner by way of this revision filed under Article 227 of the Constitution of India, has challenged the order passed by the Tribunal dated 01.02.2018. We are unable to understand as to why the Tribunal has adjourned the stay petition to such a long date i.e. on 28.08.2018. The Code of Civil Procedure mandates that interlocutory application to be disposed of within a period of 30 days. In the instant case, the petitioner has been pressing for an interim order and no specific reason was assigned by the Tribunal in its order dated 15.01.2018 as to why an order of status-quo as prayed for by the petitioner should not be granted. All that what has been stated is that there are no valid reasons to grant status-quo order. We are unable to countenance the manner in which the matter has been dealt with especially when the petitioner has been praying for an order of interim stay. The Tribunal could have adopted a more reasonable approach by directing the counter affidavit filed in the main SARFAESI appeal to be treated as counter affidavit in the stay petition as well. If this procedure was adopted, it would have been more reasonable. Thus, considering the facts and circumstances of the case and in the light of the observations made by us in the preceding paragraph, we are of the considered opinion that the following order would meet the ends of justice.

8.The Debt Recovery Tribunal, Madurai is directed to take up I.A.No.2543 of 2017 for disposal, treat the counter affidavit filed in the main SARFAESI appeal by the respondent bank as counter affidavit in I.A.No.2543 of 2017, heard both parties including the District Collector and dispose of the stay petition, within a period of four weeks from the date of receipt of a copy of this order. Till then, the possession of the petitioner over the property shall not be disturbed. The Tribunal while considering the stay petition shall also consider the feasibility of the proposal given by the petitioner, who has brought an intending purchaser viz., Sonel Modern Rice Mill (P) Ltd., Kerala State addressed to the District Collector vide letter dated 19.01.2018 and the bonafides to settle the claim made therein shall also be considered . We make this observation because the endeavour of the respondent bank is to recover the outstanding at the earliest point of time and if the offer made by the intending purchaser is bonafide and satisfied the liability, the same can very well be considered.

9.With the observation and direction, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1.The District Magistrate/The District Collector,
O/o.The District Collector,
Trichy District, Trichy.

2.The Debt Recovery Tribunal,
Madurai.

3.The Authorised Officer,
Central Bank of India,
Srirangam Branch, Tricy.

+1cc to M/S.R.Sriram, Advocate SR.No. 54294

C.R.P.(MD) No.516 of 2018
and
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JM/SKN RSK/SAR 2/12.03.2018/4P/5C