

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.11256 of 2019

M/s.Sree Shanthosh Steels Pvt. Ltd.,
Rep. by its Director,
P.K.P. Narayana Murthy,
Aged about 59 years,
No.32/71 Rasappa Street,
Chennai - 600 003.

.. Petitioner

v.

1 State Bank of India,
Rep. by its Assistant General Manager &
Authorised Officer,
SAMB-Red Cross Building,
No.32, Montieth Road, Egmore,
Chennai - 600 008

2 The Chairman,
State Bank of India,
State Bank Bhavan,
Madame Cama Road, Nariman Point,
Mumbai - 400 021

3 The Managing Director,
State Bank of India,
State Bank Bhavan,
Madame Cama Road, Nariman Point,
Mumbai - 400 021

4 The Deputy Managing Director,
State Bank of India,
Stressed Assests Management Group,
2nd Floor, World Trade Centre,
Corporate Centre,
Mumbai-400 005.

5 The General Manager (Operations),
State Bank of India , State Bank Bhavan,
Stressed Assests Management Group,
2nd Floor, World Trade Centre,
Corporate Centre,
Mumbai-400 005.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, directing the respondents to release the retained documents/title deeds and to consider the representation of the petitioner 15.02.2019.

For Petitioner : Mr.M.A.Rajendra
For Respondents : Mr.M.L.Ganesh - for R1
No Appearance - for R3 & R4
Not Ready in Notice - R2 & R5

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The above Writ Petition has been filed the petitioner to issue a Writ of Mandamus, directing the respondents to release the retained documents/title deeds and to consider the representation of the petitioner dated 15.02.2019.

2. It is the case of the petitioner that the respondent-bank filed O.A.No.703 of 2016 before the Debts Recovery Tribunal-II, Chennai, for recovery of a sum of Rs.40,72,65,321.37/-. The petitioner submitted an OTS application on 24.09.2018 for settlement of its dues to the respondent-bank. By letter dated 11.10.2018, the respondent-bank sanctioned the OTS and the petitioner, by letter dated 22.11.2018, had accepted the OTS. As per the OTS, the petitioner was to pay a sum of Rs.12,02,04,310/-.

3. According to the respondent-bank, as per the OTS letter dated 11.10.2018, the petitioner and its related parties shall withdraw all cases/suits pending against the bank, particularly, the case filed by M/s.Ravi Bharat Gas Agency. The petitioner had remitted the upfront amount of Rs.60,10,216/-. Further, the petitioner had also made a sum of Rs.1,80,34,095/- being 20% of the OTS. That apart, the petitioner had remitted another sum of Rs.5 crores by way of three Demand Drafts and a sum of Rs.3,41,43,030/- by way of NEFT. In all, the petitioner had remitted a sum of Rs.10,81,87,341/-. As per the terms of the OTS, the petitioner has to withdraw all the cases as well as the suits by M/s.Ravi Bharat Gas Agency.

4. Admittedly, the petitioner and M/s.Ravi Bharat Gas

Agency has not withdrawn the pending cases. As against the dismissal of O.A.No.703 of 2016, on the file of the Debts Recovery Tribunal - II, Chennai, the respondent-bank preferred an appeal in R.A.No.40 of 2019, before the Debt Recovery Appellate Tribunal, Chennai and the petitioner also entered appearance in the said appeal.

5. When the dispute between the petitioner and the respondent-bank is pending before the Debt Recovery Appellate Tribunal, we are of the view that it would be appropriate for the petitioner to file appropriate application before the Debt Recovery Appellate Tribunal seeking for the relief sought for in the present Writ Petition.

6. So far as the second portion of the prayer sought for in the Writ Petition is concerned, i.e. to consider the representation dated 15.02.2019, the learned counsel appearing for the petitioner submitted that the representation given by the petitioner has already been considered by the respondent-bank and therefore, the said relief need not be granted.

7. So far as the first portion of the prayer is concerned, the learned counsel appearing for the respondent-bank submitted that the petitioner can file an application before the Debt Recovery Appellate Tribunal in R.A.No.40 of 2019 and seek for appropriate remedy. Further, when there is a disputed question of fact involved in this Writ Petition, the said disputed fact cannot be decided in this Writ Petition under Article 226 of the Constitution.

8. In such view of the matter, it is open to the petitioner to file appropriate application in R.A.No.40 of 2019 before the Debt Recovery Appellate Tribunal seeking for return of documents/title deeds. In the event of the petitioner filing such an application, the Appellate Tribunal shall decide the same on merits and in accordance with law.

With these observations, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Rj

To

- 1 The Assistant General Manager &
Authorised Officer,
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- 2 The Chairman,
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+1cc to Mr.M.A.Rajendra, Advocate in sr.no.52519 (15/07/2019)

W.P.No.11256 of 2019

CA(CO)
CS/26/06/2019
CS/15/07/2019

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