

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.9113 of 2019 and

W.M.P.No.9625 of 2019

Sujana Metal Products Ltd.
Employees Welfare Association
Rep by its Joint Secretary
Venkata Satyanarayan Gupta Arisetty
Having its office at MIG-2A-32-31-36-59
Rajeev Nagar ,Kurmannapalem
Gajuwaka, Vishakhapatnam
Andhra Pradesh ... Petitioner

v.

- 1 M/s.Splendid Metal Products Ltd.
[Formerly Known as Sujana Metal Products Ltd]
Plot No.18, Nagarjuna Hills
Panjagutta
Hyderbad 500 082
- 2 Punjab National Bank
Large Corporate Branch
Maker Towers 'E' Ground Floor
Cuffe Parade, Mumbai 400 005
- 3 Sam Arul Prasath
- 4 The Presiding Officer
Debts Recovery Tribunal II
Chennai ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents their men agents servants or officers or anyone claiming under them or acting on their behalf in any way take possession of the machineries and seize them which are lying in the Factory of M/s.Splendid Metal Products Ltd (Formerly known as Sujana Metal Products Ltd.) at MIG-2A-32-31-36-59, Rajeev Nagar , Kurmannapalem, Gajuwaka, Vishakhapatnam, Andhra

Pradesh, till the final settlement of workers of the petitioner-Association are completed.

For Petitioner : Mr.C.Uma Shankar

For Respondents: Mr.M.L. Ganesh - for R2

O R D E R

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

The petitioner-Association has filed the above Writ Petition to issue a Writ of Mandamus forbearing the respondents from taking possession of the machineries and seize them, which are lying in the Factory of M/s.Splendid Metal Products Ltd (Formerly known as Sujana Metal Products Limited) at MIG-2A-32-31-36-59, Rajeev Nagar, Kurmannapalem, Gajuwaka, Vishakhapatnam, Andhra Pradesh, till the final settlement of workers of the petitioner-Association are completed.

2.1 It is the case of the petitioner-Association that it is a registered association under the Societies Act in the office of the Registrar of Societies, Anakapalli, Andhra Pradesh and that it is having 450 members, basically all are labourers. Further, according to the petitioner-Association, the members are working in the 1st respondent-factory, which was producing steel products, especially, in heavy structural products. The 1st respondent borrowed loan from the 2nd respondent-bank and defaulted in repaying the loan. Hence, the 2nd respondent-bank filed an application n O.A.No.961 of 2018 before the Debts Recovery Tribunal-II, Chennai. In the said Original Application, the 2nd respondent-bank filed an application in I.A.No.1068 of 2018, seeking for an appointment of Advocate Commissioner to seize the hypothecated stocks, plant and machinery, finished goods and semi-finished goods, books, debts, etc.

2.2 According to the petitioner-Association, they were not aware of any proceedings filed against the 1st respondent-company and they came to know about the proceedings only when the Advocate Commissioner visited the Factory on 02.03.2019. Subsequently, they came to know that by order dated 27.12.2018, the Debts Recovery Tribunal, Chennai, appointed an Advocate Commissioner to seize the movables available in the 1st respondent-factory.

2.3 The petitioner-Association gave a letter to the Advocate Commissioner informing him that the closure of the Factory is not possible without settlement of the Factory workers. In view of the representation given by the petitioner-Association,

the Advocate Commissioner to execute the warrant, however, informed them that he will execute the warrant with the aid of the Police on 28.03.2019. In these circumstances, the petitioner-Association has filed the Writ Petition.

3. It is not in dispute that the 1st respondent availed loan from the 2nd respondent-bank and that they committed default in repaying the loan amount, which resulted in the 2nd respondent-bank filing O.A.No.961 of 2018 before the Debts Recovery Tribunal-II, Chennai. When the 1st respondent availed the loan by mortgage and hypothecation and that they committed default in repaying the loan, in order to recover the public money, the 2nd respondent has filed the Original Application.

4. Mr.M.L. Ganesh, learned counsel appearing for the 2nd respondent-bank submitted that the 1st respondent is liable to pay about Rs.4000 crores to the 2nd respondent-bank.

5. At the instance of the Employees Welfare Association, the present Writ Petition has been filed to prevent the 2nd respondent from taking possession of the movables.

6. Admittedly, the petitioner-Association has not approached the Debts Recovery Tribunal so far. Instead, the petitioner-Association has filed the Writ Petition to forbear the 2nd respondent from taking possession of the movables lying in the first respondent-factory in Andhra Pradesh. That apart, the petitioner-Association has not given the full details with regard to the loan transaction between the 1st respondent and the 2nd respondent. According to the learned counsel for the 2nd respondent-bank, such a huge amount is due from the 1st respondent-company. When such a huge amount is due from the 1st respondent-company, which is a public money, it cannot be allowed to go un-recovered. The petitioner-Association can work out their remedy before the appropriate forum and not before this Court by way of a Writ Petition more so, when the proceedings are pending before the Debts Recovery Tribunal-II, Chennai.

7. In these circumstances, we are not inclined to entertain the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Rj

To

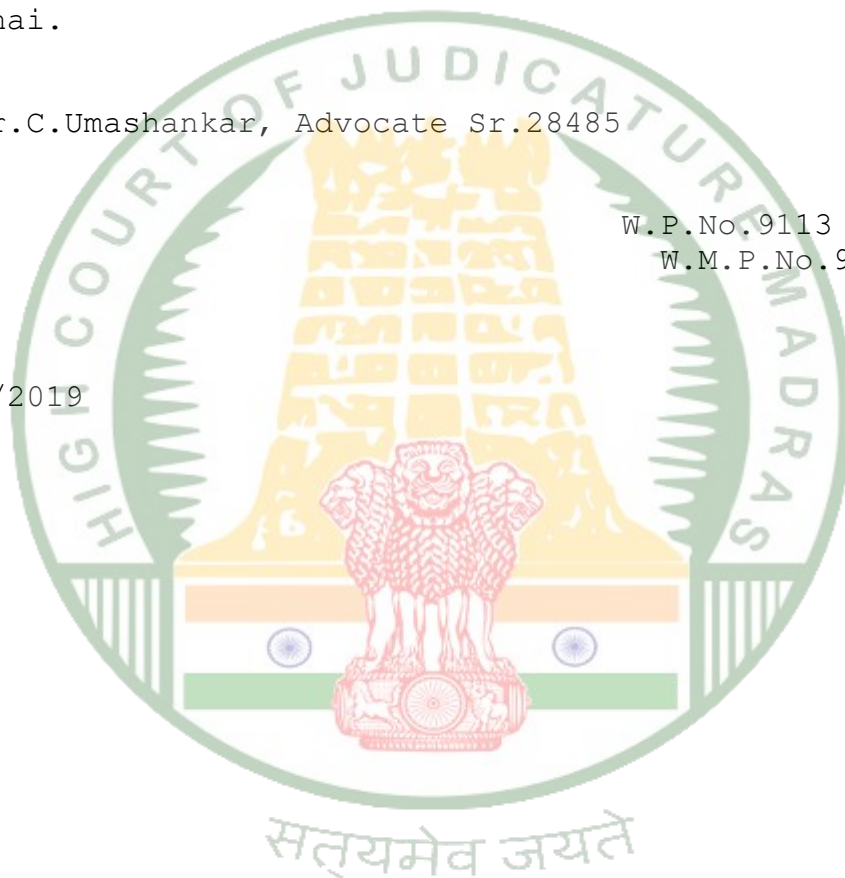
1 Punjab National Bank
Large Corporate Branch
Maker Towers 'E' Ground Floor
Cuffe Parade, Mumbai 400 005.

2 The Presiding Officer
Debts Recovery Tribunal II
Chennai.

+1cc to Mr.C.Umashankar, Advocate Sr.28485

W.P.No.9113 of 2019 and
W.M.P.No.9625 of 2019

kk[col
srg 28/03/2019



WEB COPY