

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.9812 of 2019 and
W.M.P.Nos.10411 & 10412 of 2019

- 1.M/s.Poonam Trading Company,
123, Tenkasi Shengottai Road,
Ilanji, Tenkasi - 627 805.
2.Navin S.Patel
3.Shivji L.Patel
4.Haresh S.Patel .. Petitioners

Vs.

1. The Chief Manager,
Bank of India, Rajapalayam Branch,
402, Tenkasi Road, Rajapalayam - 626 117.
2. The Chief Manager & Authorized Officer,
Bank of India,
Asset Recovery Dept "Star House",
324, Oppanakara Street,
Coimbatore - 641 001. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus to call for the records pertaining to the letter vide Ref.No.RJP/ADM/2018-19 dated 25.04.2018 of the 1st respondent and quash the same and consequently direct the respondents to re-validate the approval letter vide Ref.No.RJPM:ADV:16-17 dated 26.12.2016 by fixing a time frame for compliance by the petitioners and forbear the 2nd respondent or his men or agents or anyone claiming under him from in any manner invoke any further measures under the SARFAESI Act, 2002 against the petitioners.

For Petitioners : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.R.Nagasundaram

O R D E R
(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records pertaining to the letter dated 25.04.2018 of the 1st respondent and to quash the same and consequently direct the respondents to re-validate the approval letter dated 26.12.2016 by fixing a time frame for compliance by the petitioners and forbear the 2nd respondent or his men or agents or anyone claiming under him from in any manner invoke any further measures under the SARFAESI Act, 2002.

2.By letter dated 26.12.2016, the respondent - Bank agreed to release six properties against accepting a total sum of Rs.19 crores, of which Rs.18 crores towards release of the said properties and Rs.1 crore in the form of TDR as additional collateral and cancellation of present NFB limit of Rs.17 crores.

3.After a lapse of nearly one and a half years, the petitioners sent a letter to the respondent - Bank for the release of six properties on payment of Rs.1 crore. In the said letter, they have stated that due to unavoidable situation the said sum of Rs.1 crore could not be paid and that they were ready and willing to pay the said sum of Rs.1 crore for the release of six properties. By letter dated 25.04.2018, the respondent - Bank rejected the request made by the petitioners and called upon them to pay the entire dues and get their properties released. Challenging this letter, the petitioners have filed the above Writ Petition.

4.When the petitioners have not complied with the letter dated 26.12.2016, the respondent - Bank had rightly rejected the request made by them in the year 2013. In these circumstances, we are not inclined to direct the respondent - Bank to accept the sum of Rs.1 crore and release the properties. When the properties were mortgaged by the petitioners, it is only the Bank that has to take care of their security. In these circumstances, we are not inclined to entertain the Writ Petition. Accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.Cell)

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Sub Assistant Registrar

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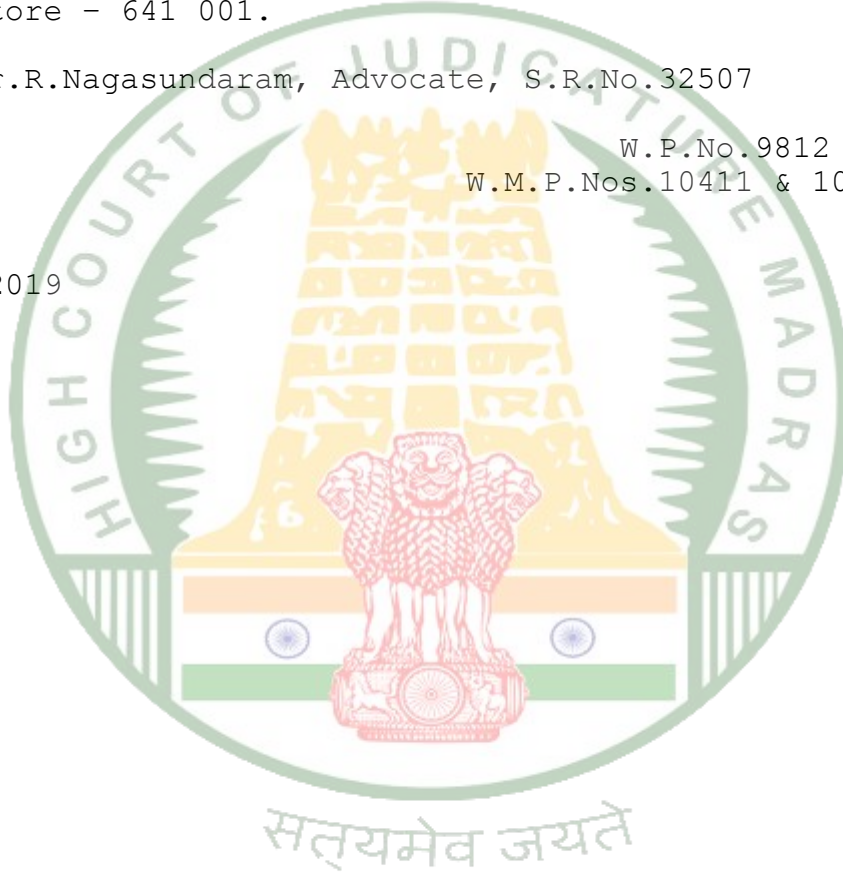
To

1. The Chief Manager,
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Rajapalayam - 626 117.
2. The Chief Manager & Authorized Officer,
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Asset Recovery Dept "Star House",
324, Oppanakara Street,
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+1cc to Mr.R.Nagasundaram, Advocate, S.R.No.32507

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SPD(CO)
CS/03/05/2019



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