

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM :

THE HON'BLE DR. JUSTICE VINEET KOTHARI
and
THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

W.P. No.10767 of 2019 and
W.M.P.Nos.11246 and 11247 of 2019

- 1.M/s.Megawin Leather India Private Limited
Represented by its Managing Director Shri.Govindaraj
323/12, Bhavani Main Road,
Chunnambu Odai, R.N.Pudur (PO)
Erode-638 005.
 2. V.Govindaraj
 3. Mohanapriya Armugam
 4. Arun Prasath Kandavel
 5. K.Muthu Lakshmi
 6. Venkatesh Rajasekaran
- Petitioners

v.

M/s.State Bank of India
Rep by its Authorized Officer/Asst.General Manager
Small and Medium Enterprises Branch (13241)
39, Prasanth Real Gold Tower, 6th Floor,
North Usman Road, T.Nagar,
Chennai 600 017

... Respondent

सत्यमेव जयते

Writ Petition filed under Article 226 of the Constitution of India praying to issue of Writ of Certiorari to call for the records in the order dated 22.03.2019 bearing No.18-19/315 and quash the same as illegal and without jurisdiction.

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For petitioner : Mr.P.J.Rishikesh

For respondent : Mr.C.Harsha Raj
for Mr.Chandrasekar

ORDER

(Order of the Court was made by DR.VINEET KOTHARI, J.)

Heard the learned counsel for the petitioner Mr.P.J.Rishikesh. The learned counsel Mr.C.Harsha Raj, was directed to accept notice on behalf of the Respondent-Bank, who has put in appearance.

2. The present Writ Petition has been filed against the impugned communication of the Respondent-Bank dated 22.03.2019, wherein it is stated that as the petitioner company/borrower has failed to deposit 15% of the amount due as directed by the Debts Recovery Tribunal in S.A.No.349 of 2018, the respondent -Bank will proceed to publish/display the defaulters name along with photographs and other details in the news papers and other appropriate place such as Bank's premises, place of residence/office of the defaulters, place where the security is situated, etc., in addition to other legal recourses available to the Bank.

3. Though the proceedings under Section 17 of the SARFAESI Act, are pending before the Debts Recovery Tribunal, the petitioner approached this Court by way of present Writ Petition under Article 226 of Constitution of India against the said communication dated 22.03.2019 of the Respondent-Bank.

4. The earlier writ petition filed by the Writ Petitioner came to be dismissed by the Co-ordinate Bench of this Court in W.P.No.32065 of 2018 dated 04.12.2018 on the ground that the alternate remedy is available to the petitioners under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal.

5. The learned counsel for the petitioner Mr.P.J.Rishikesh urged before this Court that the petitioner needs only a small breathing time as the petitioner Company is tying up with M/s.Tarini Enterprises Limited, (NBFC) who have assured to extend the financial assistance to the petitioners before 30.04.2019 and the Petitioner Company is not in a position to immediately deposit 15% of the outstanding amount, which comes to 2.70 crores. He further submitted that a sum of Rs.71,00,000/- (Rupees Seventy One Lakhs only) stands paid by the borrower, which fact was noted by the learned Debts Recovery Tribunal also in its order dated 07.12.2018.

6. Though this Court would not invoke extraordinary jurisdiction under Article 226 of the Constitution of India, when the effective and proper alternate remedy before the learned Debts Recovery tribunal has also been availed by the

petitioner/borrower. This was the reason why the previous Writ Petition filed by the petitioner came to be dismissed as aforesaid.

7. However, at this stage in view of peculiar facts and circumstances of the case, subject to the condition that the petitioner Company pays a substantial amount of the amount now due to be paid for a limited period of about 20 days only upto 30.04.2019, we are inclined to grant a limited and conditional relief to the petitioners in the present case for the aforesaid very limited period.

8. Having heard the learned counsel for the parties we are of the view that the present writ petition deserves to be disposed of and accordingly is disposed of with a limited direction that if the Petitioner-Company pays and deposits a sum of Rs.1,00,00,000/- (Rupees One crore only) in addition to Rs.71,00,000/- (Rupees Seventy One Lakhs only) already paid against the outstanding dues to the Respondent-Bank, S.B.I on or before 22.04.2019 then the Respondent Bank may not proceed to publish the names of the petitioners along with photographs and other details in the news papers and other specified places, as informed in the communication dated 22.03.2019 upto 30.04.2019. We make it clear that in case of any default on the part of the Petitioner Company to make the said deposit of Rs. one crore, on or before 22.04.2019 and no extension of period or reduction of amount is permissible, then the present petition shall be treated as dismissed and the relief granted to the petitioner as indicated above shall stand withdrawn forthwith and the further legal action on the part of the Respondent/Bank will be taken subject to orders to be passed by the Debts Recovery Tribunal.

9. With these observations, this Writ Petition is disposed of. No order as to costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते

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Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

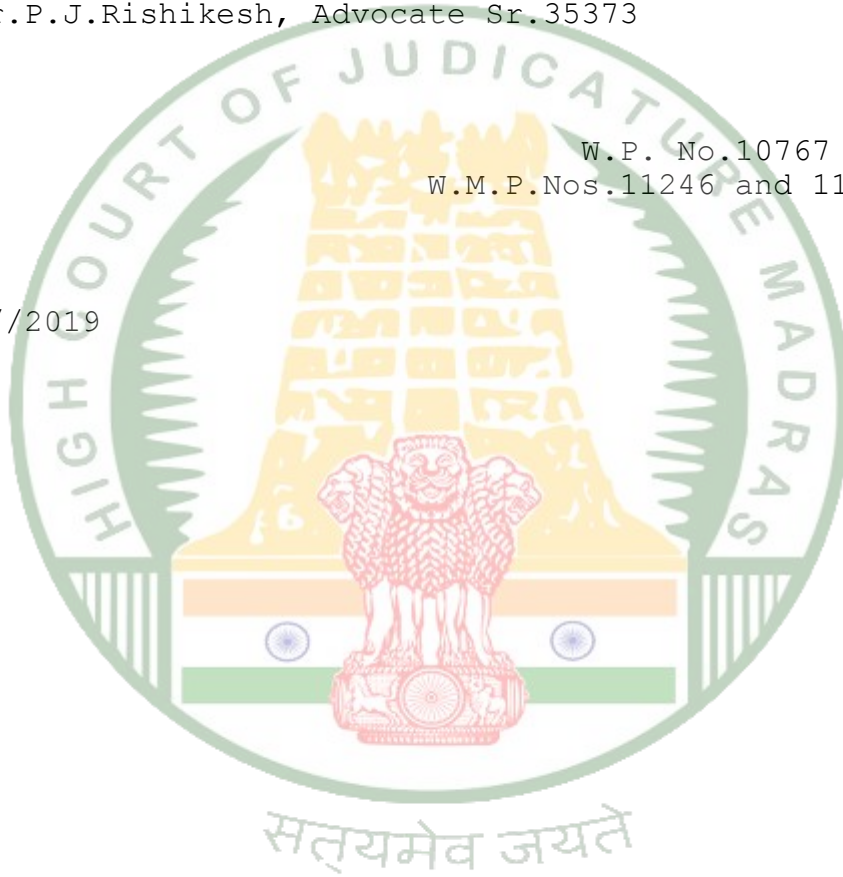
To

M/s.State Bank of India
Rep by its Authorized Officer/Asst.General Manager
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+1cc to Mr.P.J.Rishikesh, Advocate Sr.35373

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