

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.31845 of 2019
and WMP No.32088 of 2019

Edelweiss Asset Reconstruction Company Limited
Acting in its capacity as Trustee of EARD Trust SC 221
Edelweiss Houwe, Off CST Road, Kalina,
Mumbai - 400 098. ...Petitioner

Vs

1.The Sub-Registrar,
Thiruvaotiyur,
21/8, Market Lane, SBI Colony,
Tondiarpet, Chennai - 600 019.

2.Tax Recovery Officer,
Central - 2, Chennai
Income Tax Department,
Room No.332, 3rd Floor,
New No.46, Mahatma Gandhi Road
Chennai - 600 034.

3.M/s.RKKR Steel Pvt. Ltd.
No.403-A, TH Road,
Thiruvotiyur,
Chennai - 600 019
Also at 2nd Floor, Prestige Palladium,
Egmore, Chennai - 600 008.

4.Mr.Rajiv Rai ... Respondents

Prayer: PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus directing the 2nd respondent to consider and pass orders on the representations issued by the petitioner herein dated 20.06.2019 and 11.7.2019 and consequently forbear the 2nd respondent from making any claims under its Attachment Order bearing No.TRC:26/CR 2/2015-16 against the petitioner or persons purchasing the Schedule Property under and through proceedings initiated by the Petitioner under SARFAESI Act read with Rules thereunder.

For Petitioner : Mr.Srinath Sridevan

For Respondents: Mr.Tamizharasan, G.A. - R1

Mrs.Hema Muralikrishnan

Sr. Standing Counsel - R2

O R D E R

The short prayer in the Writ Petition is for mandamus directing the second respondent i.e., Tax Recovery Officer to consider and pass orders on the representations filed by the petitioner on 20.6.2019 and 11.07.2019 and consequently forbear the second respondent from making any claim under attachment order bearing No.TRC:26/CR 2/2015-16 against the petitioner or any future purchasers of the schedule mentioned property at Thiruvottiyur Village.

2. The petitioner is an Asset Reconstruction Company and has stepped into the shoes of the Indian Bank as per Section 5 (22) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, pursuant to Assignment Agreement dated 30.06.2016, whereunder Indian Bank had assigned the debt of one M/s.RKKR Steels Private Limited (in short 'company'/R3) to it. The question before me relates to a tussle between the right pursued by the petitioner in regard to the schedule property and the right pursued by the Income Tax Officer in regard to the same property in relation to income tax dues of R3 and the fourth respondent.

3. I see no reason to go into the merits of the priority of claim for the reason that the prayer of the petitioner is itself only for disposal of its representations filed before the Tax Recovery Officer.

4. Mr.Tamizharasan, learned Government Advocate accepts notice for the first respondent and Mrs.Hema Muralikrishnan, learned Standing Counsel accepts notice for second respondent. The third and fourth respondents are private parties/defaulting assesseees and have not been put on notice.

5. In fine, there is a direction to the second respondent to dispose representations dated 20.06.2019 and 11.07.2019

within a period of three (3) weeks from today, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner.

6. This Writ Petition is disposed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sl

To

1.The Sub-Registrar,
Thiruvaottiyur,
21/8, Market Lane, SBI Colony,
Tondiarpet, Chennai - 600 019.

2.Tax Recovery Officer,
Central - 2, Chennai
Income Tax Department,
Room No.332, 3rd Floor,
New No.46, Mahatma Gandhi Road
Chennai - 600 034.

+lcc to Mr.Srinath Sridevan, Advocate SR.94075

+lcc to Mrs.Hema Muralikrishnan, Advocate SR.94144

+lcc to the Government Pleader SR.94637

Writ Petition No.31845 of 2019
and WMP No.32088 of 2019

SJ(CO)
CB(10/01/2020)

सत्यमेव जयते

WEB COPY