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THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

AND

THE HONOURABLE MRS. JUSTICE R.THARANI

Writ Petition (MD)No.2995 and 2996 of 2019

and

W.M.P. (MD) .Nos.2236 to 2339 of 2019

W.P. (MD) .No.2995/2019

1.Sumathi

2.Anandhi

3.Uma

4.Sarasu @ Saraswathi

.. Petitioners

Vs.

1.The Authorised Officer,

UCO Bank,

Tiruchirapalli Main 'D' Block, Shree Complex,

18-21, Madurai Road,

Tiruchirapalli-620 008.

2.The Branch Manager,

UCO Bank,

Tiruchirapalli Main 'D' Block, Shree Complex,

18-21, Madurai Road,

Tiruchirapalli-620 008.

3.M/s.Nagabushanam Fasteners,

styled as a partnership business,

rep. by

A.R.Nandhakumar and A.R.Sampathkumar,

sons of Late G.Rathinasabapathi

S.No.356/2, E.1, Ancillary Industrial Estate,

Thiruverumbur, Trichy-14.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned possession notice issued by the 1st respondent herein dated 13.12.2018 under section 13(4) of SARFAESI Act and quash the same as illegal and further issue directions to the respondents 1 and 2 herein not to proceed further under SARFAESI Act till the disposal of the Final Decree Proceedings in I.A.No.475 of 2015 in O.S.No.36 of 2010 on the file of the 1st Additional District Court Tiruchirappalli.

W.P. (MD) .No.2996/2019

Sarasu

.. Petitioner

Vs.



Tiruchirapalli Main 'D' Block, Shree Complex,
18-21, Madurai Road,
Tiruchirapalli-620 008.

2.The Branch Manager,
UCO Bank,
Tiruchirapalli Main 'D' Block, Shree Complex,
18-21, Madurai Road,
Tiruchirapalli-620 008.

3.M/s.Nagabushanam Precision
Engineering Industries Pvt. Limited,
styled as a Private Limited Company,
rep. by
A.R.Nandhakumar and A.R.Sampathkumar,
sons of Late G.A.Rathinasabapathi
S.No.356/2, E.2, Ancillary Industrial Estate,
Thiruverumbur, Trichy-10. ..Respondents

Prayer:Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned possession notice issued by the 1st respondent herein dated 13.12.2018 under section 13(4) of SARFAESI Act and quash the same as illegal and further issue directions to the respondents 1 and 2 herein not to proceed further under SARFAESI Act till the disposal of the Final Decree Proceedings in I.A.No.475 of 2015 in O.S.No.36 of 2010 on the file of the 1st Additional District Court Tiruchirappalli.

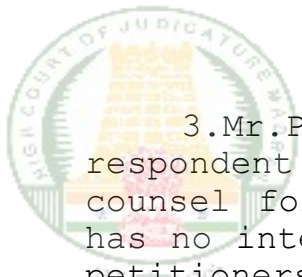
For Petitioners :Mr.V.Meenakshisundaram(in Both case)
For R1 & R2 :Mr.Pala Ramasamy(in Both case)
:No appearance for R-3(in Both case)

COMMON ORDER

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

These writ petitions have been filed, challenging the possession notice issued by the first respondent dated 13.12.2018 under Section 13(4) of SARFAESI Act and for a direction to the respondents not to proceed with the SARFAESI Act, till the disposal of the proceedings in I.A.No.475 of 2015 in O.S.No.36 of 2010 on the file of the 1st Additional District Court Tiruchirappalli.

2.It is the submission of Mr.V.Meenakshisundaram, learned counsel appearing for the petitioners that even before issuance of the notices impugned in these writ petitions, the petitioners have repaid Rs.17,00,000/- and during the pendency of the writ petitions, the entire balance loan amount of Rs.49,05,000/- to the respondent Bank has been settled and there is no due as on date.



3.Mr.Pala Ramasamy, learned Standing Counsel appearing for the respondent Bank has not disputed the statement made by the learned counsel for the petitioners. Further, it is stated that the Bank has no intention to take physical possession of the property of the petitioners in pursuance of the impugned notices.

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4.The first petitioner in W.P.(MD).No.2995 of 2019 has filed an affidavit, dated 4th March 2019, in which, in paragraph No.5, it has been stated as follows:

"5.I further submit that, it is to be noted that totally we have paid Rs.49,05,000/- (Rupees Forty nine lakhs and five thousand only) towards the loan liability which includes the liability of our brothers A.R.Nandhakumar and A.R.Sampathkumar. Hence, we are entitled to proceed as against them for recovery of their share amount towards loan liability in the pending final decree proceedings in I.A.No.328 and 329 of 2018 in I.A.No.475 of 2015 in O.S.No.36 of 2010 before I Additional District Court, Tiruchirappalli. Moreover, in the interest of justice, it is just and necessary to pass the direction directing the respondent herein to return the Original title deeds (1) Sale deed 1766 of 1974 in favour of G.A.Rathinasabapathy and (2) Sale Deed 1531 of 1986 in favour of M/sNagabushnam Fasteners to the Writ petitioners herein. This arrangement is purely on the basis that we have discharged the entire loan liability and entitle for the remedies available under Section 140 and 141 of Indian Contract Act, 1872 as against our brothers A.R.Nandhakumar and A.R.Sampathkumar, which can be worked out in pending proceedings in I.A.Nos.328 and 329 of 2018 in I.A.No.475 of 2015 in O.S.No.36 of 2010 before I Additional District Court, Tiruchirappalli."

5.Considering the fact that the entire loan amount has been repaid and the respondent Bank has no intention to take further action in pursuance of the impugned notices, in our considered opinion, no further adjudication is required in these writ petitions. Accordingly, these writ petitions are closed with liberty to the petitioners to work out their remedy before the competent Civil Court in the pending suit or in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

+1cc to Mr.Pala Ramasamy,Advocate, SR.No.51866