

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.Nos.3624, 3630 and 3640 of 2020
and W.M.P.Nos.4257, 4260, 4261, 4266, 4268, 4271,
4281, 4286 and 4290 of 2020

1. G.Jawahar
2. J.Rajalakshmi ... Petitioners 1 and 2 in all these
Writ Petitions
3. Haran Textile Company
rep. by its Partner Mr.G.Jawahar,
No.36, Bharathi Park,
Cross No.5, Saibaba Colony,
Coimbatore-641 011. ... Petitioner 3 in WP No.3624/2020
3. Sri Venkatesh Shyam Kumar ... Petitioner 3 in WP No.3640/2020
Vs.
1. Authorised Officer,
City Union Bank Limited,
No.24-B, Gandhi Nagar,
Kumbakonam-612 001.
2. City Union Bank Limited,
Coimbatore Ram Nagar Branch,
27-30, Sarojini Street,
Ram Nagar,
Coimbatore-641 009. .. Respondents in all these Writ
Petitions

PRAYER in W.P.No.3624/2020 : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondents pertaining to the Re-tender cum Auction Sale Notice dated 31.01.2020 in respect of the agricultural lands situate in S.No.564/1, Kalikanaickenpalayam Village, Thondamuthur, Coimbatore District, published in Indian Express Newspaper dated 01.02.2020 and quash the same and consequently forbear the respondents from bringing the agricultural lands situate in

S.No.564/1, Kalikanaickenpalayam Village, Thondamuthur, Coimbatore District, for sale under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

PRAYER in W.P.No.3630/2020 : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondents pertaining to the Re-tender cum Auction Sale Notice dated 31.01.2020 in respect of the agricultural lands situate in S.Nos.564/1, 564/2, 567, 590/2, 590/1, 591/2A, 591/2C, 592/1, 592/2, 593, 594/3, 594/2, 594/1, 594/1A, 594/1B, 594/2, 594/3, 594/2A, 591/2B, 613/2A, 614/2, 614/1, 613/1, 618/1B, Kalikanaickenpalayam Village, Thondamuthur, Coimbatore District, published in Indian Express Newspaper dated 01.02.2020 and quash the same and consequently forbear the respondents from bringing the agricultural lands situate in S.Nos.564/1, 564/2, 567, 590/2, 590/1, 591/2A, 591/2C, 592/1, 592/2, 593, 594/3, 594/2, 594/1, 594/1A, 594/1B, 594/2, 594/3, 594/2A, 591/2B, 613/2A, 614/2, 614/1, 613/1, 618/1B, Kalikanaickenpalayam Village, Thondamuthur, Coimbatore District, for sale under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

PRAYER in W.P.No.3640/2020 : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the respondents pertaining to the Re-tender cum Auction Sale Notice dated 31.01.2020 in respect of the agricultural lands situate in S.Nos.138/2, 136/1, 137, West Chithirai Savadi Village, Thondamuthur, Coimbatore District, published in Indian Express Newspaper dated 01.02.2020 and quash the same and consequently forbear the respondents from bringing the agricultural lands situate in S.Nos.138/2, 136/1, 137, West Chithirai Savadi Village, Thondamuthur, Coimbatore District, for sale under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

For Petitioners in : Mr.P.Valliappan
all these W.Ps.

For Respondents : Mr.Akshai Mani,
in all these W.Ps. Standing Counsel

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

The petitioners laid challenge to the Re-tender cum Auction Sale Notices dated 31.01.2020 in respect of the agricultural lands situate in Kalikanaickenpalayam Village and West Chithirai Savadi Village, Thondamuthur, Coimbatore District, published in Indian Express Newspaper dated 01.02.2020 and consequently sought a direction forbearing the respondents from bringing the said agricultural lands for sale under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "the SARFAESI Act").

2. The petitioners are promoters of the firm, namely, M/s.Haran Textile Company, which availed packing financial facilities from the respondents Bank originally upto Rs.25 Crores and then enhanced to Rs.40 Crores. The business of the concern, namely, M/s.Haran Textile Company, run into rough weather, on account of vagaries of business and the borrowers have committed default in payment of dues. The respondent Bank had initiated proceedings under the SARFAESI Act. The possession notices dated 17.09.2019 and 31.10.2019 were also issued informing about the default committed by the borrowers, for the payment of dues for an amount of Rs.9,08,69,006/- (Rupees nine crores eight lakhs sixty nine thousand and six only) as on 15.06.2019 ; Rs.30,13,72,667/- (Rupees Thirty crores thirteen lakhs seventy two thousand six hundred and sixty seven only) as on 12.06.2019 ; and Rs.17,86,60,697/- (Rupees Seventeen crore eighty six lakh sixty thousand six hundred and ninety seven only) as on 24.07.2019 ; with a further caution not to deal with the said properties. It also followed the tender-cum-auction sale notices dated 22.11.2019.

3. Challenging the said action, the petitioner filed S.A.Nos.666 to 668 of 2019 on the file of the Debts Recovery Tribunal (DRT), Coimbatore. Pending disposal of the same, the petitioner also filed interlocutory applications for staying the recovery proceedings.

4. It is stated that for want of the Presiding Officer at DRT, Coimbatore, the Presiding Officer, DRT, Madurai, used to take the matters once in a week. Though the applications for interim orders have been filed, the respondents Bank took repeated adjournments for filing counter-affidavits and therefore, the interim order could not be granted. Taking advantage of the same, the respondents Bank has initiated Re-

tender-cum-Auction Sale notices dated 01.02.2020.

5. The primordial submission of the learned counsel appearing for the petitioners, by drawing the attention of this Court to the description of the schedule mentioned properties, is that since the properties are classified as "agricultural lands", it is exempted under the provisions of Section 31(i) of the SARFAESI Act and since the petitioners are having a tenable defence, this Court may pass appropriate orders protecting the interest of the petitioners.

6. Per contra, the learned Standing Counsel for the respondents would submit that the plea made by the learned counsel for the petitioners is a disputed question of fact, which requires adjudication and this Court in exercise of the jurisdiction under Article 226 of the Constitution may not do the said exercise and it would suffice to direct the DRT, Madurai, to accord priority and give disposal of the applications for interim reliefs filed by the petitioners, pending disposal of S.A.Nos.666 to 668 of 2019 on the file of the DRT, Coimbatore.

7. This Court has perused the rival submissions and also perused the materials placed to this Court.

8. Though the petitioners sought for a larger relief, this Court, in the light of the facts and circumstances of the case and without going into the merits pleaded by the petitioners, requires the DRT, Madurai, in charge of the DRT, Coimbatore, to accord priority and take up the applications filed seeking for interim reliefs in S.A.Nos.666 to 668 of 2019 and after hearing the respondents Bank, shall dispose of the said applications as expeditiously as possible not later than three weeks from the date of receipt of a copy of this order.

9. It is open to the respondents Bank to proceed with the auction sale and however, they shall not confirm the auction sale till the disposal of the applications for interim relief by the DRT within the time stipulated by this Court.

10. These writ petitions stand disposed of, accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

gg

To

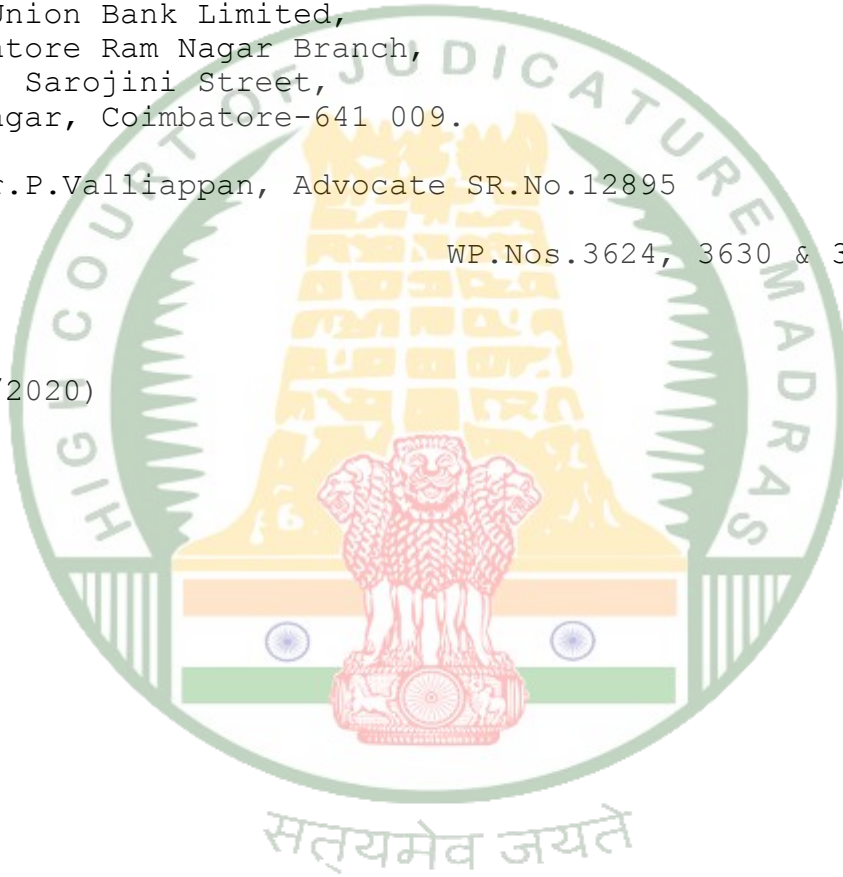
1. The Authorised Officer,
City Union Bank Limited,
No.24-B, Gandhi Nagar,
Kumbakonam-612 001.

2. The Branch Manager,
City Union Bank Limited,
Coimbatore Ram Nagar Branch,
27-30, Sarojini Street,
Ram Nagar, Coimbatore-641 009.

+3cc to Mr.P.Valliappan, Advocate SR.No.12895

WP.Nos.3624, 3630 & 3640 of 2020

AK(CO)
GMY(21/02/2020)



WEB COPY