

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.5688 of 2020
and W.M.P.No.6627 of 2020

The Star Cars Private Limited
rep.by its Managing Director
Mrs.Wahitha Shahjahan

...Petitioner

Vs

The UCO Bank
The Assistant General Manager
and Branch Head
Pondicherry Main Branch,
7,Rue Made De Labourdannis,
Pondicherry 605 001

....Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records on the file of the respondent in REF:MISC:2019-20/REC dated 08.11.2019 and the consequential notice in UCO/PONDY/2019-20/SARFAESI, dated 09.12.2019 and quash the same.

For Petitioner .. Mr.AR.L.Sundaresan, Sr.Counsel
for Mr.Ramasubramaniam Raja
For Respondent .. Mr.T.Ravichandran

सत्यमेव जयते

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to file this writ petition challenging the notice issued under Section 13(2) of the SARFAESI Act by the respondent/Bank on the premise that the declaration of the account as non-performing asset is contrary to the guidelines of the Reserve Bank of India.

2.Learned Senior Counsel appearing for the petitioner submitted that the representation has been made pursuant to the impugned notice under Section 13(3A) of the SARFAESI Act. The issue is as to whether the action of the respondent is sustainable after reconstruction by permitting the payment in instalment is justified or not can be adjudicated upon by this Court. Learned senior counsel has placed reliance upon catena of judgments (i)D.Ravichandran Vs. Manager, Indian Overseas Bank and Another (2006 SCC Online Mad 102), (ii)Core Ceramics Limited Vs. Union of India and Others (2008 SCC Online CAL 100), (iii) R.Premalatha Vs. State Bank of India (2018 SCC Online Mad 4162), (iv)Devi Ispat Ltd., Vs. State Bank of India (2014 5 SCC 762) and (v)Authorised Officer, State Bank of Travancore Vs. Mathew KC (2018 2 SCC 85),

3.Placing reliance upon the various judgments of this Court as well as Apex Court, learned counsel appearing for the respondent/Bank submitted that the writ petition is not maintainable.

4. In the case on hand, the order is yet to be passed on the representations made by the petitioner. Therefore, we find force in the submission made by the learned counsel appearing for the respondent/Bank. In the judgements referred supra, the Apex Court was pleased to hold that the notice issued under Section 13(2) of the Act cannot be challenged before this Court.

5. In such view of the matter, particularly when the order is yet to be passed on the representation of the petitioner, we are not inclined to entertain this writ petition and go into the merits of the case. Accordingly, the writ petition stands closed and all the issues are left open. However, in the event of any adverse order being passed or notice under Section 13(4) is issued, the petitioner can workout the remedy in the manner known to law, if so advised. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

The Assistant General Manager
and Branch Head/UCO Bank
Pondicherry Main Branch,
7,Rue Made De Labourdannais,
Pondicherry 605 001

+1cc to M/s.Ramasubramaniam Raja, Advocate, SR.No.32753
+1cc to Mr.T.Ravichandran, Advocate, SR.No.32574

W.P.No.5688 of 2020

MP(CO)
KKV/09/12/2020



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