

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.6.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.8077 of 2020
and
W.M.P.Nos.9574 & 9575 of 2020

M/s.KMP Spinners Limited,
S.F.No.299/7, Paraikkadu,
Chinnarampalayam,
Elanthakuttai Privu, Veppandi Post,
Tiruchengode Taluk, Erode 638 008.
rep. by its Authorised Signatory
Mr.K.M.Panneerselvam

..... Petitioner

Vs.

1. The Debts Recovery Tribunal,
2nd and 3rd Floors, Jawans Bhavan,
27, T.B.Road, Coimbatore 641 018.
2. The Authorised Officer,
M/s.Indian Overseas Bank,
Erode Main Branch,
12 APT Road, Sathy Road,
Park Road Junction, Erode 638 003.

..Respondents

Petition under Article 226 of the Constitution of India
praying for a Writ of certiorarified mandamus calling upon the
2nd Respondent to (1) Quash the Sale Notice dated 20.1.2020 and
set aside the Sale of the properties in the E-auction conducted
on 26.2.2020; (2) direct the 2nd Respondent to substitute the
new Investor Mr.Rajendran Kumaraswamy in the place of the
alleged third party purchaser and register the sale in favour of
the said new Investor without creating any hassles or demur or
delay.

For Writ Petitioner : M/s.M.G.Pranava Charan

ORDER
(Made by Dr.Vineet Kothari,J)

The Petition seeking to dispense with the production of the Certified Copy of the Sale Notice dated 20.1.2020 is ordered.

2. The Borrower M/s.KMP Spinners Private Limited, Erode has filed this Writ Petition under the SARFAESI Act, 2002 seeking to restraint on the Authorized Officer of the Indian Overseas Bank not to issue the Sale Certificate in favour of the auction purchaser, who has not been impleaded in the present Petition.

3. The Sale Notice has been issued by the Respondent-Bank on 20.1.2020 and 3.3.2020 after the possession of the property in question was taken on 27.12.2019.

4. The learned counsel for the Petitioner Mr.M.G.Pranava Charan has submitted that the case filed by the Petitioner before the Debts Recovery Tribunal, Coimbatore was numbered as 128/2020 and is pending in the said Tribunal and the Madurai Bench of Debts Recovery Tribunal has the jurisdiction over the Coimbatore cases, but, the said Tribunal is not effectively functioning and that is why the present Writ Petition has been filed in this court.

5. The Writ Petition was heard through Video Conferencing in view of the urgency mentioned.

6. The learned counsel for the Petitioner has also drawn our attention to a General Notice issued by the Debts Recovery Tribunal, Coimbatore on 3.5.2020 where it is mentioned that only urgent cases which may be heard through Video Conferencing only with the permission of the Presiding Officer and in case of any difficulty to contact one Mr.Ranjit, Section Officer (9446039001) as given in the said Notice. The learned counsel for the Petitioner also submitted that some Banks also have recently approached the Hon'ble Supreme Court with the case that the Benches of Debts Recovery Tribunals are not functioning properly.

7. Having heard the learned counsel for the Petitioner, we are of the opinion that we cannot interfere in the present Writ Petition at this stage because for the same grievance raised before us, the Petitioner has already filed the proceedings before the Debts Recovery Tribunal, Coimbatore, which is the proper forum to hear the said case, in Case No.128 of 2020 and the same is pending and so far as the urgent hearing of the case by the Debts Recovery Tribunal, Coimbatore is concerned, the

same can be taken care by a direction to the learned Tribunal to hear the urgent cases in terms of its Notice dated 3.5.2.2020.

8. Therefore, we give liberty to the Petitioner to approach the said Debts Recovery Tribunal, Coimbatore and we expect that the said Tribunal will hear the said case of the Petitioner expeditiously by giving opportunity of hearing to the other affected parties concerned.

9. With these observations, we dispose of this Writ Petition with a request to the Debts Recovery Tribunal, Coimbatore to take up the matters and pass appropriate orders after giving opportunity of hearing to the parties concerned. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk

To

1.The Debts Recovery Tribunal,
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27, T.B.Road, Coimbatore 641 018.

2.The Authorised Officer,
M/s.Indian Overseas Bank,
Erode Main Branch, 12 APT Road,
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3.M/s.KMP Spinners Limited,
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BP(CO)
CB(10/06/2020)