

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2020

CORAM

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

W.P.No.10874 of 2020
& W.M.P.Nos. 13195 & 13198 of 2020

1.M/s.Nakoda Unique Gold Pvt. Ltd.,
Having its Registered Office at,
No.59, NSC Bose Road, Sowcarpet,
Chennai - 600 079.

2.Ramanlal Jain
3.Gautham Kumar Jain
4.Bharti Devi
5.Sangita Goutham Kumar

... Petitioners

Vs

1.State Bank of India,
Branch Manager - Panagal Park,
No.102, Usman Road (20289),
T.Nagar, Chennai - 600 017.

2.The State Bank of India,
Rep. By Authorised Officer,
Stressed Asset Management Branch,
No.32, Red Cross Building, 2nd Floor,
Montieth Road, Egmore,
Chennai - 600 008.

3.The Reserve Bank of India,
Department of Banking Regulation,
Central Office, 12th Floor,
Shahid Bhagat Singh, Marg,
Mumbai - 400 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the classification of 1st petitioner's account held with the 1st respondent as Non Performing Asset (NPA) on 13.02.2020 (copy not served) and the consequential notice dated 19.02.2020 issued under Section 13(2) by the 1st respondent and the notice dated 10.07.2020 issued under Section

13(4) of the SARFAESI Act, 2002 by the 2nd respondent and quash the same.

For Petitioners .. Mr.M.Deivanandam
For Respondents .. Mr.B.Dhanaraj for R1 and R2
Mr.C.Mohan for
M/s.King & Partridge for R3.

ORDER

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

The first petitioner-company is the borrower. The petitioners 2 and 3 are the Directors for the said company and the petitioners 4 and 5 are the guarantors. They have come forward to file this writ petition seeking to quash the proceedings of the first respondent 13.02.2020 and the consequential notice dated 19.02.2020 issued under Section 13(2) of the SARFAESI Act, 2002, by the 1st respondent and the notice dated 10.07.2020 issued under Section 13(4) of the SARFAESI Act, 2002 by the 2nd respondent.

2.The learned counsel appearing for the petitioners submitted that the writ petition is maintainable since the petitioners are challenging the classification of the first petitioner's account as Non-Performing Asset by the first respondent-Bank.

3.We are not impressed with the said argument. The petitioners have come forward to file this writ petition, admittedly, after the issuance of notice under Section 13(4) of the SARFAESI Act, 2002 by the second respondent. In fact, a challenge is also made to the notice issued under Section 13(4) of the SARFAESI Act, 2002. Though the petitioners have challenged the proceedings of the first respondent dated 13.02.2020, they would not have ventured to file this writ petition but for the notice issued under Section 13(4) of the SARFAESI Act, 2002.

4.Be that as it may, as the petitioners have got effective efficacious remedy before the Debts Recovery Tribunal, they can raise all the contentions before it.

5.In such view of the matter, we are inclined to interfere with the same. Taking note of the fact that the petitioners have filed the present writ petition challenging the proceedings of the first respondent, we are inclined to grant further period of two weeks to challenge the proceedings before the Debts

Recovery Tribunal from the date of receipt of a copy of this order. Till then, there shall be an order of status quo as on today.

6.The writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

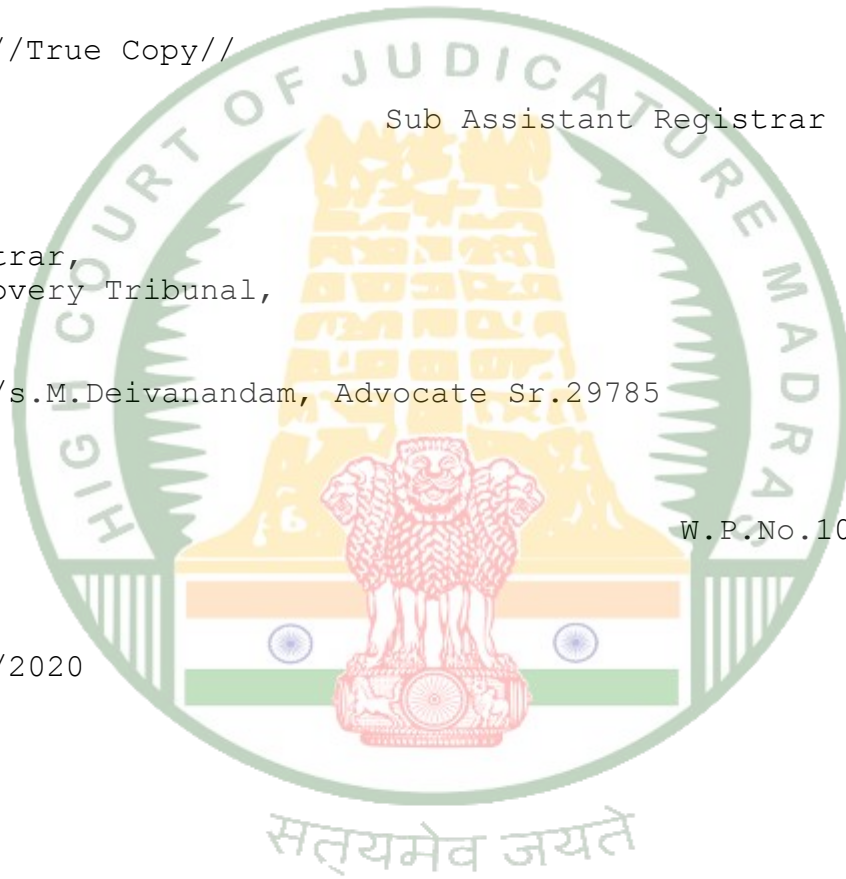
To

The Registrar,
Debts Recovery Tribunal,
Chennai.

+2cc to M/s.M.Deivanandam, Advocate Sr.29785

W.P.No.10874 of 2020

vsn II[co]
srg 25/09/2020



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