

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.R.P. (PD) No.1572 of 2020

and

C.M.P.No.9521 of 2020

Jammu and Kashmir Bank Limited,
Parrys Branch, Represented by its Branch Head
and Authorized Signatory,
Aijaz ul Qayoom, Voltas International Building,
No.52, Armenian Street, Parrys,
Chennai – 600 001.

... Revision Petitioner

Vs.

ETA Engineering Private Limited,
Represented by its Managing Director,
having its registered office at
No.1, Moores Road,
Chennai – 600 006.

And also at
No.120/21, Razak Garden Main Road, 1st Floor,
Arumbakkam,
Chennai – 600 106.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned order dated 11.05.2020 passed in S.A.No.165 of 2018 on the file of the Debts Recovery Tribunal-I at Chennai and allow the present Civil Revision Petition.

For Petitioner : Mr.Chethan Sagar

For Respondent : Ms.Lilly Franklin
for M/s.King and Partridge

ORDER

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

This Civil Revision Petition has been filed against the order dated 11.05.2020 passed in S.A.No.165 of 2018 on the file of the Debts Recovery Tribunal-I at Chennai.

2.The borrower filed S.A.No.165 of 2018 on the file of the Debts Recovery Tribunal-I at Chennai under Section 17(1) of the SURFAESI Act for declaration that the action of the respondent Bank/petitioner herein under Section 13 of the said Act is contrary to law and to set aside the order of the Chief Metropolitan Magistrate, Chennai, in

CrI.M.P.No.4713 of 2018 with a consequential order to restore the possession of the Secured Assets in their favour. The said application, after contest, came to be allowed vide impugned order dated 11.05.2020 with a positive direction.

3.The respondent Bank in S.A.No.165 of 2018, aggrieved by the said order, filed an appeal in A.IR.No.73 of 2020 on the file of the Debts Recovery Appellate Tribunal at Chennai and on account of the close-down due to Covid-19 pandemic virus, and also in the light of the fact that there was a positive direction to hand over the Secured Assets in favour of the borrowers, the appeal was not taken up, aggrieved by which, the present petition has been filed, in which, an order of status *quo* has also been passed.

4.When the matter was taken up for hearing today, the learned counsel for the petitioner, on instructions, would submit that, since the petitioner has an effective alternative remedy by filing an appeal before the Debts Recovery Appellate Tribunal, it may be permitted to avail the said remedy and till the Appellate Tribunal takes up the appeal for

disposal, the present order of status *quo* may be permitted to be maintained by both the parties.

5.The learned counsel for the respondent/borrower would submit that the Debts Recovery Tribunal-I at Chennai, on exhaustive analysis and consideration and appreciation of materials, had rightly reached the conclusion to allow the SURFAESI application and in the absence of any infirmity or error apparent on the face of the records, this Court, in exercise of its jurisdiction under Article 227 of the Constitution of India, may not interfere with the same and prays for dismissal of this Civil Revision Petition.

6.This Court has carefully considered the rival submissions and perused the materials available on record.

7.In the light of the fact that the petitioner Bank has availed the alternative remedy by filing an appeal in A.IR.No.73 of 2020 on the file of the Debts Recovery Appellate Tribunal at Chennai, along with a petition for stay, the Debts Recovery Appellate Tribunal at Chennai is

requested to entertain the said appeal, if the papers are otherwise in order, and shall take up the petition for stay at the first instance, after putting the respondent/borrower on notice, and dispose of the said petition for stay as expeditiously as possible, not later than six weeks from the date of receipt of a copy of this order and till such time, the order of status *quo* passed by this Court on 07.09.2020 with regard to the possession of Secured Assets shall be maintained. It is also open to the Debts Recovery Appellate Tribunal at Chennai to afford priority for final disposal of the appeal itself at an early date.

8.This Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

(M.S.N., J.) (R.H., J.)

06.10.2020

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Internet : Yes

Index : No

Speaking order

M. SATHYANARAYANAN, J.
and
R. HEMALATHA, J.

mkn

To

- 1.The Presiding Officer,
Debts Recovery Appellate Tribunal,
Chennai.
- 2.The Presiding Officer,
Debts Recovery Tribunal-I,
Chennai.



C.R.P. (PD) No.1572 of 2020

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