

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.11.2020

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.15909 of 2020

Annapoorani yarns ... Petitioner

Versus

M/s.Central Bank of India
rep.by its Authorised Officer,
No.2, Court Street,
Tirupur-641 601. ... Respondent

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus forbearing the Respondent, their men, officers, Agents, Servants, Representative or any one claiming through or under them or any other person from proceeding any further in terms of Possession Notice dated 05.08.2019 till such time the appeal to be disposed by the Debts Recovery Tribunal at Coimbatore in S.A.No.264 of 2020.

For Petitioner : Mr.S.Ezhilraj

For Respondent : Mr.M.L.Ganesh

ORDER

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

The petitioner had filed SARFAESI Applications in Nos.264 & 296 of 2020 on the file of the Debts Recovery Tribunal, challenging the initiation of the proceedings in the form of issuance of notices under Sections 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI

Act'). A perusal of the materials would prima facie disclose that in terms of Possession Notice dated 05.08.2019 issued by the respondent Bank, the Firm as well as the partners are due and payable for a sum of Rs.10,27,66,981/-. One of the secured assets had also been sold and the respondent Bank has also invoked Section 14 of the SARFAESI Act and got an order dated 26.02.2020 in Crl.M.P.No.22/2020 passed by the Court of Chief Judicial Magistrate, Thirupur.

2. The learned counsel appearing for the petitioner would submit that the possession of the secured assets are yet to be taken and in the meanwhile, the petitioner has also made an offer of One Time Settlement vide representation dated 06.10.2020 and though it has been rejected by the respondent Bank vide communication dated 09.10.2020, this Court may take note of the same and take a sympathetic view, in the light of the onset and thick spread of COVID-19 pandemic virus. If one more chance is given, the petitioner is ready to settle the matter with the Bank and buy peace.

3. Per contra, Mr.M.L.Ganesh, learned standing counsel who accepts notice on behalf of the respondent Bank would submit that one of the secured assets had been sold for a sum of Rs.78,00,000/- and the Bank is also taking further steps to execute the order passed by the Court of Chief Judicial Magistrate, Tiruppur in Crl.M.P.No.22/2020 and also points out that in the light of the rejection of the One Time Settlement request made by the petitioner vide communication of the respondent Bank dated 09.10.2020, nothing remains for further adjudication in this Writ Petition.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. In the facts and circumstances, this Court is not inclined to go into the merits or otherwise of the claim made by the petitioner for the reason that the SARFAESI applications are pending on the file of the Debts Recovery Tribunal, Coimbatore, in and by which, the petitioner herein made challenge to the initiation of the proceedings under Sections 13(2) and 13(4) of the SARFAESI Act. The respondent Bank has also obtained the order dated 26.02.2020 under Section 14 of the SARFAESI Act in Crl.M.P.No.22/2020 on the file of the Court of Chief Judicial Magistrate, Tirupur. The endeavour made by the petitioner in the form of One Time Settlement offer did not find favour with the respondent Bank, in the light of their communication dated 09.10.2020. Therefore, this Court is unable to come to the aid of the petitioner for the present.

6. At this juncture, the learned counsel appearing for the petitioner would pray for early disposal of the SARFAESI Applications, pending on the file of the Debts Recovery Tribunal, Coimbatore, as he is having a bright chance of success in the said proceedings.

7. This Court taking note of the above submission, directs the Debts Recovery Tribunal, Coimbatore, to dispose of the said SARFAESI Applications as expeditiously as possible.

8. In the result, the Writ Petition is dismissed, subject to above observation. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Authorised Officer,
M/s.Central Bank of India
No.2, Court Street,
Tirupur-641 601.

2.The Deputy Recovery Tribunal,
Coimbatore.

SR(CO)
RMP (25/01/2021)

W.P.No.15909 of 2020

सत्यमेव जयते

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