IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.18129 of 2020
and W.M.P.Nos.22520 & 22521 of 2020

M/s.Gugan Paper Mills Pvt Ltd
PAN No.AGOPR1587R
rep.by its Director Mr.R.Sathyanarayanan
S/o Mr.S.Ramakrishnan
S.F.No.2/4, Ayyampalayam Village,
Palani Taluk,
Dindigul District 624 617. .. Petitioner

Versus

1.M/s.Central Bank of India
rep.by its Authorized Officer
No.14/15, Variety Hall Road,
Coimbatore 641 001.

2.M/s.IDBI Bank
rep.by its Authorized Officer,
NMG, 2nd Floor, Saidapet,
115, Anna Salai, Post Bag NO.805,
chennai 600 015.

3.M/s.CFM Asset Reconstruction Pvt. Ltd.,
rep.by its Authorised Officer
1st Floor, Wakefield House, Sprott Road,

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Ballard Estate, Mumbai 400 038.

4.M/s.Hitech Bio Products,
rep.by its Managing Director,
10/20F, Reddy Street,
Virugambakkam, Chennai 600 092.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents 1 to 3 to consider and dispose the request of the petitioner company dated 16.10.2020 to repay the remaining OTS amount within the period of 31.03.2021 along with an interest of 8% per annum as per the RBI Guidelines.

For Petitioner : Mr.S.Yogalakshmi

For RR 1 : Ms.Hemalatha Suresh

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. (through video conferencing)]

The petitioner had availed loan facilities from the 1st respondent as well as from other Banks, for which the 1st respondent is the lead Bank and in view of the defaults committed, a Demand Notice under Section 13(2) of the The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, dated 04.02.2016 was issued to the petitioner as well as to the Guarantors, demanding a total sum of Rs.50,40,19,804.67/- within 60 days, failing which further

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proceedings under the Act would follow and according to the same, the petitioner had sent a detailed response on 02.04.2016 and however without properly considering the same, the Possession Notice under Section 13(4) of the Act, came to be issued and making a challenge to the same, the Borrower as well as Gurantor, jointly filed S.A.No.106 of 2016, on the file of the Debts Recovery Appellate Tribunal, Coimbatore and the same is pending. It is further stated by the petitioner that on pendency of S.A.No.106 of 2016, the 1st respondent as a lead Bank of Consortium, had issued e-auction Sale Notice dated 02.10.2016 and in the auction held on 08.11.2016, seven items of properties, offered as security by the guarantors, were sold for a consideration of more than Rs.6.40 crores. In the interregnum, Indian Bank, one of the gurantor had assigned their debt in favour of the 3rd respondent, who have now stepped into the shoes of Indian Bank and continuing the proceedings as assignee. It is the specific case of the petitioner that all the three financial institutions agreed to receive a total sum of Rs.15 crores in full and final settlement of the dues under OTS and the petitioner, in order to prove the bonafide and in compliance of the order passed by the DRAT, Coimbatore, in the pending proceedings, a sum of Rs.2,50,000/- also deposited with the 1st respondent and thus, the petitioner would claim

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that they have totally paid a sum of Rs.5.5 crores and the purchaser was also ready and willing to pay the entire balance OTS amount and to take over the assets and therefore, prays for extension of time, by submitting representation dated 16.10.2020.

2. The learned counsel appearing for the petitioner would submit that in the light of the RBI guidelines, it is obligatory on the part of the 1st respondent to consider the request made by the petitioner for extension of time for considering OTS and also in the light of the bonafide exhibited.

3. *Per contra,* learned counsel appearing for the 1st respondent would submit that the secured assets have been brought for auction and the same was also successful in favour of the 4th respondent and the entire sale consideration has also been paid by him and the Sale Certificate is yet to be issued.

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4. This Court, in the light of the above facts and circumstances, and without going into the merits of the claim projected by the petitioner, either in their representation or in this Writ Petition, directs the 1st

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respondent to consider and dispose of the petitioner's representation dated 16.10.2020, in accordance with law, within a period of one week from the date of receipt of a copy of this order / uploading of order copy in the website and communicate the decision taken, to the petitioner.

5. The Writ Petition stands disposed of, accordingly. No costs. Consequently connected miscellaneous petitions are closed.

[M.S.N,J] [R.H.J]
11.12.2020

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Internet:Yes /No
Index: Yes/No

To
1.The Authorized Officer
M/s.Central Bank of India
No.14/15, Variety Hall Road,
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2.The Authorized Officer,
M/s.CFM Asset Reconstruction Pvt. Ltd.,
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3.The Authorised Officer
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M.SATHYANARAYANAN, J.,
AND
R.HEMALATHA, J.,

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4.The Managing Director,
M/s.Hitech Bio Products,
10/20F, Reddy Street,
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WP.No.18129/2020

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