



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.28511 of 2017
and W.M.P.Nos.30654, 30655, 33932 & 33933 of 2017

1.Roopa Cotton Mills,
Rep.by its Partner Mr.B.R.Arun Eashwar,
S.F.No.231/1, 2, Kunnangalpalayam,
Karaipudur Village, Veerapandi,
Palladam Road, Tiruppur - 641 605.

2.B.Roopa

3.B.Arun Eashwar

4.B.Rajalakshmi

... Petitioner

Vs

1.The Authorized Officer,
State Bank of India,
SAM Branch, 1112, Raja Plaza,
Avinashi Road, Coimbatore - 641 037.

2.T.Muthu Suseela

3.TVS Automobile Solutions Ltd.,
No.58, Eldams Road,Teynampet,
Chennai - 600 018.

... Respondents

(R2 & R3 are impleaded as per order of this Court
dated 09.01.2018 in W.M.P.No.33931 of 2017
in W.P.No.28511 of 2017)

Prayer : Writ Petition filed under 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records connected with the impugned order dated 24.10.2017 passed by the Debt Recovery Appellate Tribunal in M.A.(S.A.) No.174 of 2017 and quash the same and consequently, order restitution of the parties as of order dated 25.09.2017 passed by the Debt Recovery Tribunal, Coimbatore.



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For Petitioners : Mr.H.Karthik Seshadri

Mr.S.Sethuraman for R1
Mr.Silambanan,
Senior Counsel for

For Respondents : Mr.A.Joseph Dorairaj for R2
Mr.G.R.Balakumar for
M/s.T.S.Gopalan & Co., for R3

ORDER

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

Challenging the order dated 24.10.2017 passed by the Debt Recovery Appellate Tribunal in M.A.(S.A.) No.174 of 2017, the present writ petition is filed.

2. The petitioners are the borrowers, for their non payment of the loan amount, a demand notice was initiated by the first respondent Bank under Section 13(2) of the SARFAESI Act on 31.12.2016. The second respondent before us is the auction purchaser, the third respondent is the tenant of the premises, which has been put into auction. On 28.02.2017, the first petitioner gave a reply to the aforesaid notice. After exchange of notices, a possession notice was issued by the first respondent on 23.3.2017, followed by the E-Auction sale notice dated 18.08.2017. On 21.08.2017, the auction sale was published in a newspaper, stating that the sale was proposed to be held on 25.09.2017. Challenging the said notice, the petitioners moved an application in S.A.No.278 of 2017 before the Debts Recovery Tribunal, Coimbatore, wherein a conditional order was passed on 25.09.2017, ordering the petitioners to make payment in two trenches, while directing the first respondent not to confirm the sale. However, it appears that on the very same day forenoon, the auction was confirmed in favour of the 2nd respondent, who paid 25% of the bid amount. This factum was disputed by the petitioners. Thereafter, on 5.10.2017, the Debts Recovery Appellate Tribunal stayed the order of the Debts Recovery Tribunal, by which an interim order was granted against the 2nd respondent not to confirm the sale. The petitioners moved a vacate stay petition and after hearing, final order was passed on 24.10.2017, giving liberty to the petitioner to challenge the auction and subsequent confirmation order. In the meanwhile, sale certificate was issued on 19.10.2017 on payment of remaining 75% by the 2nd respondent.

3. When the 3rd respondent was before this Court, an interim order of protection was given in favour of the petitioners and



interest bearing deposit. We make it clear that we are not dealing with all these issues on facts and law adjudicated by the Tribunal.

8. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Authorized Officer,
State Bank of India,
SAM Branch, 1112, Raja Plaza,
Avinashi Road,
Coimbatore - 641 037.

2. The Registrar,
The Debt Recovery Tribunal,
Coimbatore.

3. The Registrar,
The Debt Recovery Appellate Tribunal,
Chennai.

+1cc to M/s.T.S.Gopalan & Co, Advocate SR.No.22022

+1cc to Mr.H.Karthik Seshadri, Advocate SR.No.22463

+1cc to Mr.A.Joseph Dorairaj, Advocate SR.No.22405

+1cc to Mr.S.Sethuraman, Advocate SR.No.22406

W.P.No.28511 of 2017
and
W.M.P.Nos.30654, 30655,
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MK (CO)
GMY (01/07/2020)