



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P. (MD) Nos. 7008 and 7009 of 2020

and

W.M.P. (MD) Nos. 6434 and 6435 of 2020

M. Malarvizhi ... Petitioner in W.P. (MD) No. 7008/2020

M. Neelakumar ... Petitioner in W.P. (MD) No. 7009/2020

Vs.

1. The Authorised Officer,
The Indian Bank,
Trichy Main Branch,
128, Big Bazaar Street,
Trichirappalli - 620 008.

2. The Indian Bank,
Rep. by its Branch Manager,
Trichy Main Branch,
128, Big Bazaar Street,
Trichirappalli - 620 008.

3. A. Thamilan ... Respondents in both petitions

4. S. S. Nithya ... 4th Respondent in W.P. (MD) No. 7009/2020

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 1 and 2 from initiating further proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 and the security enforcement rules.

For Petitioner in both
Writ Petitions

: Mr. V. Singan



COMMON ORDER

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

In view of the order going to be passed in this Writ Petition notice to the respondents is dispensed with.

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2. Heard the submissions of the learned counsel for the Petitioners and perused the affidavits filed in support of the Writ Petitions.

3. Admittedly, the Petitioners have availed financial assistance from the second respondent in the form of Housing Term Loan for a sum of Rs.84.70 Lakhs and other financial assistance. In the light of the default committed by them, the second respondent bank issued notice of demand under Section 13(2) of the SARFAESI Act, dated 23.10.2018 demanding a sum of Rs.96,33,458/- and it appears that the petitioners and another had approached the said bank for the settlement of the amount. It is case of the petitioners that the second respondent without considering the said plea had proceeded further and issued possession notice under Section 13(4) of the SARFAESI Act dated 27.12.2018, followed by Notice of Intended Sale dated 12.02.2019. However, the auction could not fructify and therefore, the second respondent Bank has once again issued another common notice to all the parties indicating their intention to bring the secured assets by way of sale on 29.01.2020. The petitioners and another challenging the said action on the part of the second respondent have filed S.A.No.63 of 2020 on the file of the Debts Recovery Tribunal, Madurai and pending disposal of the same, also filed interlocutory application to stay all further proceedings.

4. It is the submission of the learned counsel for the petitioners that though appeal has been entertained, the petition for interim stay, has not been listed for hearing and taking advantage of the same, the second respondent bank is proceeding further and therefore, prays for appropriate orders.

5. This Court, upon hearing the arguments advanced by the learned counsel for the petitioners and on going through the materials, is inclined to pass the following order:-

Admittedly, the SARFAESI Appeal is pending and therefore, this Court cannot go into the merits or otherwise of the matter. However, taking into consideration the plea made by the learned counsel for the petitioners and the apprehension expressed by the petitioners, this Court directs the Debt Recovery Tribunal, Madurai to number the interlocutory application for stay, if the papers are otherwise in order and after putting the second



respondent bank on notice, shall give a disposal in accordance with law as expeditiously as possible and not later than four weeks from the date of receipt of a copy of this order.

6. The Writ Petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

sj

To

1. The Registrar,
The Debts Recovery Tribunal,
Madurai.
2. The Authorised Officer,
The Indian Bank,
Trichy Main Branch,
128, Big Bazaar Street,
Trichirappalli - 620 008.
3. The Branch Manager,
Indian Bank,
Trichy Main Branch,
128, Big Bazaar Street,
Trichirappalli - 620 008.
4. M. Malarvizhi, W/o. M. Neelakumar,
No. 7A, A.R.O. Nagar, Airport Post,
Trichirappalli-620 007.
5. A. Tamilian, S/o. Arumugam,
4/93A, 7th Street, Gandhi Nagar,
Kattur, Trichirappalli-600 019.
6. M. Neelakumar, S/o. S. P. Muthupalaniappan,
No. 7A, A.R.O. Nagar, Airport Post,
Trichirappalli-620 007.



7.S.S.Nithya,W/o.Senthilmaran,
No.1/180F, 12th Cross,
Vasan City, Somarasampettai, Tricy-102.

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