



WEB COPY

W.A(MD)No.918 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A(MD)No.918 of 2020
and
C.M.P(MD)No.5002 of 2020
Against WP(MD).16555 of 2019

1.K.S.M.Educational Trust,
represented by its Managing Trustee,
M.Subramaniam,
No.10, Mambazha Salai,
Srirangam,
Trichy - 620 006.

2.M.Subramaniam

3.S.Nirmala ... Appellants /Petitioners
Vs.

1.The Reserve Bank of India,
Department of Banking Regulation,
13th Floor, Central Office Building,
Mumbai.

2.The Executive Director,
Committee of Executives on Willful Defaulters,
Bank of Baroda,
Baroda Corporation Centre
Court -26, Government Block,
Bandra Kurla Complex, Bandra [E],
Mumbai.

3.The Assistant General Manager,
Bank of Baroda,
Zonal Stressed Asset Recovery Branch,
1st Floor, 74, Thiyagaraya Road,
T.Nagar, Chennai - 600 017.

4.The Senior Branch Manager,
Bank of Baroda,
Manachanallur Branch,
No.5, Edumalai Road,
Trichy - 621 005.

... Respondents / Respondents



PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 24.07.2020 passed in W.P(MD)No.16555 of 2019 and allow this appeal.

Prayer in WP(MD). 16555 of 2019 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court Calling for the records of the 4th respondent dt.18.09.2018 vide Manach/Recy/55/23 and quash the same.

For Appellants : Ms.J.Anandhavalli

For Respondents : Mr.Srinath Sridevan

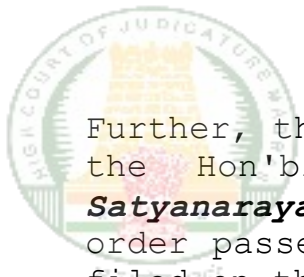
JUDGMENT

[Judgment of the Court was delivered by **B.PUGALENDHI., J.**]

This writ appeal is directed as against the order, dated 24.07.2020, passed in W.P(MD)No.16555 of 2019.

2.In the writ petition in W.P(MD)No.16555 of 2019, the appellants/ petitioners have challenged the show cause notice, dated 18.09.2018 issued by the 4th respondent. The said show cause notice was challenged mainly on the ground that the 4th respondent / the Branch Manager of the Bank is not the competent authority to issue the show cause notice and as per the Master Circular of the Reserve Bank of India, dated 01.07.2015, the Committee constituted under Clause 3(a) of the said Master Circular is competent to issue the show cause notice. The other contention raised by the petitioners therein is that the Bank has agreed for one time settlement and an agreement was also arrived at to that effect between them. However, by superseding the said one time settlement agreement, the show cause notice has been issued and therefore, it has become redundant.

3.The learned Single Judge has considered the rival submissions made and has also taken note of the dismissal of the earlier writ petition filed by the petitioners in W.P(MD)No.24505 of 2018, challenging the notice, dated 01.12.2018 issued by the Committee as contemplated under Clause 3(a) of the Master Circular of the Reserve Bank of India, dated 01.07.2015. The learned Single Judge, relying on the order of the Hon'ble Supreme Court in the case of **State Bank of India Vs Jah Developers Pvt Ltd and others** reported in **[2019] 6 SCC 787**, observed that the show cause notice has also been issued by the 4th respondent, as per the directions of the Committee of the Executives on Willful Defaulters and this one time settlement between the parties, subsequent to the said show cause notice, has not been complied with and therefore, it cannot be a ground to interfere with the show cause notice.



Further, the learned Single Judge has also relied to the decision of the Hon'ble Supreme Court in **Union of India Vs Kunisetty Satyanarayana**, reported in **[2006] 12 SCC 28**. Aggrieved over the order passed in the writ petition, the present writ appeal has been filed on the very same grounds raised in the writ petition.

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4.This Court paid its anxious consideration to the rival submissions and perused the material placed on record.

5.This first appellant Trustee, running an Educational institution availed credit facilities from the respondent Bank in the year 2011. The account was declared as NPA in the year 2014. The notice under Section 13 (2) of the SARFAESI Act was issued on 22.04.2015, directing to pay a sum of Rs.7,16,84,850/-. The Bank vide letter, dated 01.12.2018 directed the petitioner for a personal hearing and that letter was challenged in W.P(MD)No.24505 of 2018 and the same was dismissed by this Court on 04.06.2019, following the principles laid down by the Hon'ble Supreme Court in **State Bank of India Vs Jah Developers Pvt Ltd and others** reported in **[2019] 6 SCC 787**. Thereafter, the impugned show cause notice was issued on 18.09.2018. After the show cause notice, the petitioner has also entered into an one time settlement agreement, on certain terms on 30.03.2019. But according to the 4th respondent Bank, the appellants failed to comply with the conditions of the one time settlement agreement and therefore, the said agreement got automatically cancelled on 06.10.2019 itself. The impugned show cause notice in the present writ petition is also issued on the directions of the Committee of Executives on Willful Defaulters.

6. Applying the law laid down by the Hon'ble Supreme Court in **Union of India Vs Kunisetty Satyanarayana**, reported in **[2006] 12 SCC 28**, and considering the reasons assigned by the learned Single Judge, while dismissing the writ petition and also the grounds raised by the appellants in the writ appeal, we do not find any infirmity in the impugned order dated 24.07.2020, passed by the learned Single Judge in W.P(MD)No.16555 of 2019. Accordingly the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dsk



To

1.The Reserve Bank of India,
Department of Banking Regulation,
13th Floor, Central Office Building,
Mumbai.

2.The Executive Director,
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Trichy - 621 005.

+1 CC to M/s.SRINATH SRIDEVAN, Advocate (SR-24722[F] dated
09/12/2020)

+1 CC to M/s.J.ANANDA VALLI, Advocate (SR-24705[F] dated 09/12/2020

W.A(MD) No.918 of 2020
08.12.2020

KG(CO)
TR(21.12.2020) 4P 7C