

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.769 and 1322 of 2020

W.P.No.769 of 2020

- 1 M/S.SRI SELVAMURUGAN MODERN
Rice Mill Through its Proprietor MRS.
KAVITHA Senthil Kumar No 55/68- A
Thirukovilur Main Road Devapandalam
Sankarapuram Villupuram District
- 2 M/S.SRI ABIRAMI RICE AND OIL MILL
Through its Proprietor MR.P.SENTHIL KUMAR
No.10/11 Thirukovilur Main Road
Devapandalam Sankarapuram
Villupuram District
- 3 M/S.SRI BALAMURUGAN MODERN RICE MILL
through its Proprietor MR.K.VELU
No 55/68- A- Thirukovilur Main Road
Devapandalam Sankarapuram
Villupuram District petitioners

Vs

M/S.HDFC BANK LTD
Rep by its Senior Manager K.N.PRAKASH
Narayanan Department for Special operations
No 96 Anna salai 7th Floor
Prince Khusal Towers B- Wing
Chennai 600 002. respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to accept the offer of the petitioners quantifying the amount of Dues of Rs 8 Crores as one time settlement as per the time limit prescribed.

For Petitioners : Mr.S.Illamvaludhi

For Respondent : Mr.K.Govindarajan

W.P.No.1322 of 2020

HDFC Bank Ltd.
Department for Special Operations
Rep. by its Senior Manager
Prince Khushal Towers
7th Floor B Wing No. 96 Anna Salai
Chennai - 600002 ... petitioner

Vs

- 1 The District Collector Cum District Magistrate
District Collector Office
Kallakuruchi District
- 2 The District Collector Cum District Magistrate
District Collector Office
Villupuram District ... respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent herein to expeditiously dispose the application filed by the petitioner under section 14 of the SARFAESI Act 2002 dated 17.10.2017 in Ref No. Na.Ka.C4/26817/2018 before the 2nd respondent which has been transferred to the 1st respondent herein on merits within a time limit.

For Petitioner : Mr.K.Govindarajan

For Respondents : Mr.K.S.Suresh
Government Advocate

COMMON ORDER

(made by the Hon'ble Chief Justice)

The borrower, which is a petitioner in W.P.No.769 of 2020, merely insists that it is ready to settle the dues without seeking to pay off the amount that is now due. An old settlement figure is cited and a mandamus is sought for the bank to accept a figure indicated in 2019, some two years down the line, without any further interest being accounted for.

2. The bank is clear in its submission. There is no settlement on the table and the time to accept the settlement figure has long passed. The bank insists on its dues as on date to be paid; or else the bank insists that it should be left free to proceed against the securities in terms of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. The bank has applied by way of W.P.No.1322 of 2020 seeking a direction on the authority under Section 14 of the said Act to pass appropriate orders for executive assistance. According to the bank, the request under Section 14 of the Act has been made several months back and notwithstanding the easing of the lockdown, the concerned official is sitting on the request.

4. The borrower does not have a legal issue to carry forward. The borrower refers to its owning a rice-mill and going into losses. The pandemic has provided a universal excuse to every defaulter and his neighbour, which the borrower seeks to exploit to the hilt. However, the Writ Court is not the appropriate forum to adjudicate on involved accounting disputes between a bank and its constituent, particularly in summary proceedings conducted on affidavit evidence.

5. There is no doubt that the bank has taken or seeks to take measures under Section 13(4) of the Act of 2002 which entitles the borrower to approach the appropriate Debts Recovery Tribunal under Section 17 of the said Act.

6. Accordingly, W.P.No.769 of 2020 is disposed of by leaving the writ petitioner free to approach the appropriate Debts Recovery Tribunal in accordance with law in respect of its grievance, if any, against the bank taking steps to sell the secured assets.

7. As far as the bank's request under Section 14 of the Act is concerned, the concerned District Collector is reminded that no adjudication of any form is required to be undertaken upon receipt of a request under Section 14 of the Act. All that the relevant authority has to do is to accept the declarations that are required to be furnished at face value and provide executive assistance within the time-line indicated in the provision. If the declarations have not been furnished, the official may seek such of the declarations that have not been furnished. Once the declarations have been furnished, the authority is duty-bound to render assistance in accordance with law. W.P.No.1322 of 2020 is disposed of by requesting the District Collector, Kallakurichi District, to take a decision on the bank's request under Section 14 of the Act within a period of a fortnight of the receipt of a

copy of this order. In the unlikely event that the assistance sought is not extended, a speaking order should be communicated to the bank within the same time.

8. It is made clear that the merits of the rival claims of the bank and the constituent have not been gone into and such matters can be canvassed before the appropriate forum, not being the District Collector, Kallakurichi District, in accordance with law.

9. W.M.P.Nos.1580, 930 and 932 of 2020 are closed. There will be no order as to costs.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

tar
To:

- 1 The District Collector Cum District Magistrate
District Collector Office
Kallakuruchi District
- 2 The District Collector Cum District Magistrate
District Collector Office
Villupuram District

+1 cc to Mr.S.Ilamvaludhi Advocate sr18536
+2 ccs to Mr.K.Govindarajan Advocate sr18799 & 18798
+1 cc to the Government pleader sr18759

सत्यमेव जयते W.P.Nos.769 and 1322 of 2020

ln(co)
aa30/03/2021

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