

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3453 of 2021

and

WMP.Nos. 3954, 3958 and 3961 of 2021

M/s. KMS & Co.
rep. by its Proprietor K.Babu
No.325, 9th Street Extn.
Gandhipuram
Coimbatore 641 012. Petitioner

Vs.

Union Bank of India
rep. by Authorised Officer
Asset Recovery Branch
No.816, Oppanakara Street
Coimbatore 641 001. Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records in the proceedings in the notices ref. No.RO:CLD:/2019-20 dated 04.02.2020 and Ref.No.ADV/SSI/CBE/KMS/501-80139/20/04 dated 06.02.2020 issued by the respondent and quash the same and to direct the respondent to stop all further proceedings done based on the notices dated 04.02.2020 and 06.02.2020.

For Petitioner : Mr.G.Vairava Subramanian

ORDER

(Made by the Hon'ble Chief Justice)

This is another of those petitions filed by a debtor to scuttle the steps taken by the respondent secured creditor in

respect of the secured assets under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. It has been fairly admitted by the petitioner that a notice under Section 13(2) of the Act was issued of February 4, 2020, to which the petitioner issued a reply on March 20, 2020. According to the petitioner, the secured creditor ignored the response and proceeded with a possession notice that was issued on September 3, 2020.

3. It appears that upon the possession notice being issued, the petitioner, quite appropriately, approached the Debts Recovery Tribunal, Coimbatore under Section 17 of the said Act. Since no sale took place in terms of the possession notice, the matter before the Debts Recovery Tribunal, possibly, became infructuous. Two more auction notices were issued, but no sale concluded. A fresh auction notice has been issued on January 21, 2021 for the auction to be held on February 18, 2021. It is such subsequent notice that has been challenged herein.

4. The remedy of the petitioner lay, again, before the Debts Recovery Tribunal upon the petitioner perceiving any subsequent sale or auction notice to be illegal or unfair. There is no reason why the petitioner has chosen to approach this Court instead of the forum recognised by the relevant statute.

5. In view of the efficacious alternative remedy available to the petitioner and since disputed questions of fact, which would inevitably arise here, cannot be conveniently addressed in summary proceedings conducted on affidavit evidence, this writ petition is not entertained and the petitioner is left free to pursue the petitioner's remedies in accordance with law.

W.P.No.3453 of 2021 is dismissed. There will be no order as to costs. As a consequence, WMP Nos.3954, 3958 and 3961 of 2021 are closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

kpl

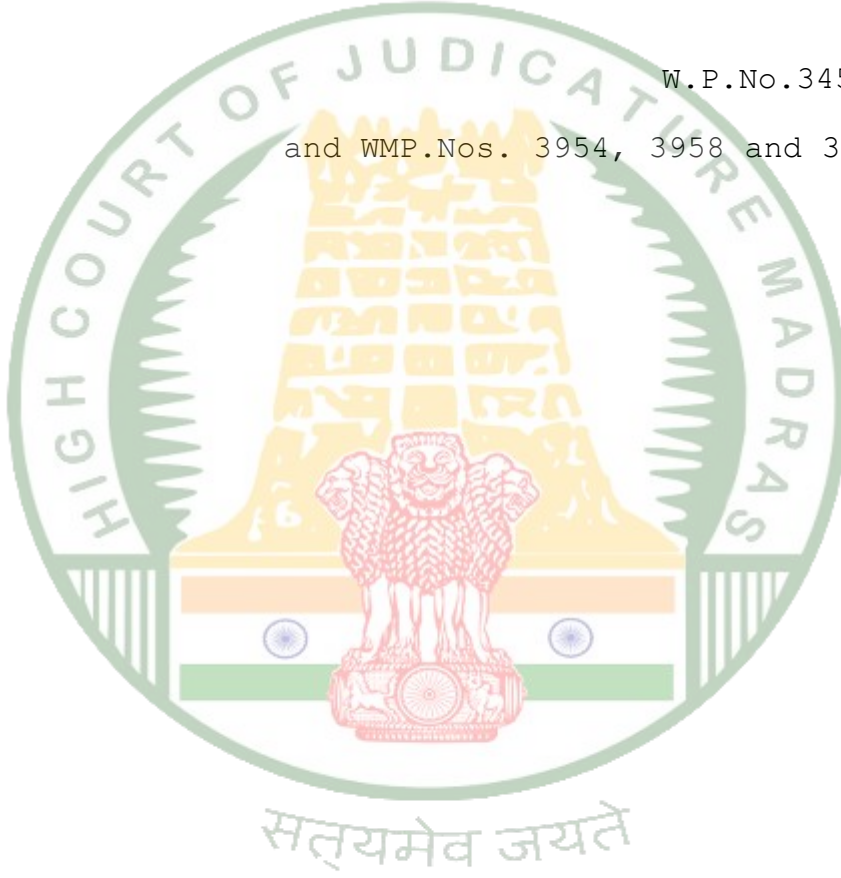
To

1. The Authorised Officer,
Asset Recovery Branch,
Union Bank of India,
NO.816, Oppanakara Street,
Coimbatore-641001

AK-11(CO)
SM/03/03/2021

W.P.No.3453 of 2021

and WMP.Nos. 3954, 3958 and 3961 of 2021



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