

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3803 of 2021

Sri Balaji Stretch Cling Films
rep. by its Managing Partner M.Sundar
S/o. Muthusamy Gounder
Plot No.J-3, West
SIPCOT Industrial Growth Centre
Perundurai 638 052
Erode District.

..Petitioner

Vs.

1. The Principal Secretary to Government
(FAC) Micro, Small and Medium
Enterprises (D-2) Department
Fort St. George, Chennai 9.

2. The Chief Manager
Indian Overseas Bank
Surampatti Branch
No.72, Perundurai Road
Erode 11.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the 2nd respondent from taking coercive steps to bring the petitioner/ guarantors properties for e-auction till the 1st respondent sanctioning the capital subsidy/ loan waiver scheme to be disbursed to the petitioner Unit as per G.O.Ms.No.74 Micro, Small and Medium Enterprises (D-2) Department, dated 24.11.2020.

For Petitioner :: Mr.C.Prakasam
For Respondent-1 :: Mr.K.S.Suresh
Government Advocate

ORDER

(made by the Hon'ble Chief Justice)

This is another of the misconceived petitions seeking to restrain the respondent bank from taking steps to realize the dues from the petitioner and from taking steps under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. At paragraph 4 of the writ petition, it is indicated that the bank has already brought the secured asset to auction.

3. It is elementary that the Writ Court would, ordinarily, not receive a grievance of the present kind, particularly since it involves disputed questions of fact, contested accounts and the like, which cannot be conveniently addressed on affidavit evidence in summary proceedings. In any event, once a secured creditor takes steps under Section 13(4) of the Act of 2002, any person aggrieved thereby is entitled to approach the appropriate Debts Recovery Tribunal under Section 17 of the said Act. In the present case, since there is an efficacious alternative remedy available to the petitioner, the writ petition is not entertained.

4. Accordingly, W.P.No.3803 of 2021 is dismissed without going into the merits thereof and by leaving the writ petitioner free to pursue the usual remedy available to it.

5. There will be no order as to costs.

6. However, the petitioner's application for subsidy may be considered by the appropriate authorities in accordance with law, without being influenced by this order. W.M.P.No.4340 of 2021 is closed.

s/d
Assistant Registrar

True Copy

Sub-Assistant Registrar

Tar

To:

The Principal Secretary to Government
(FAC) Micro, Small and Medium Enterprises (D-2) Department
Fort St. George, Chennai 9.

+1cc to Government Pleader, Advocate, SR.No.11593

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W.P.No.3803 of 2021

AD(CO)
KKV/09/03/2021