

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26-02-2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

WRIT PETITION NO.5080 OF 2021

AND

W.M.P.NOS.5653 AND 5654 OF 2021

1. M/s.Carrieall Car Pvt Ltd
rep.by its Managing Director
M.P.Gopi, Son of Panchapakesan.K
No.347, 3rd Floor, Arcot Road
Kodambakkam, Chennai - 600 024
 2. Mr.P.Gopi
 3. Mrs.Raji Sridhar
- .. Petitioners

Versus

Authorised Officer,
Bank of Baroda, Asset Recovery Management Branch
No.74, Theagaraya Road
T.Nagar, Chennai - 600 017

.. Respondent

Prayer:- Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned communication of the respondent vide BOB: ZOSARB:23:935 dated 04.02.2021, quash the same.

For Petitioners : Mr.S.Haja Mohideen Gisthi
For Respondent : Mr.S.Pandurangan

ORDER

(Order of the Court is made by R.Subbiah, J)

The petitioners have come forward with this writ petition challenging the communication dated 04.02.2021 issued by the respondent.

2. When the matter is taken up for consideration, this Court posed a question to the counsel for the petitioners as to how this writ petition is maintainable since the dispute relates to and connected with the proceedings initiated by the respondent under the SARFAESI Act. The learned counsel for the

petitioner, however, has nothing to reply to offer as regards the maintainability of this writ petition. At the same time, the learned counsel for the petitioners only submitted that out of 7 Crores due, the petitioners have already paid Rs.2.24 crores to the respondent and they are also ready and willing to pay the balance amount to the respondent. The learned counsel for the petitioners also prayed this Court to direct the respondent bank to consider the One Time Settlement (OTS) proposal made by the petitioners.

3. In the light of the aforesaid submission of the counsel for the petitioners, the hearing of the writ petition was passed over.

4. When the writ petition is taken up for hearing at 1.00 pm, the learned counsel for the respondent is present. He submitted that already the matter is pending before Debt Recovery Tribunal in which a conditional order has been passed directing the petitioners to pay a sum of Rs.25 lakhs. As per the conditional order, the petitioners have to pay Rs.25 lakhs and the matter is posted on 10th March 2021 by the Tribunal to comply with the condition.

5. In reply, the learned counsel for the petitioners submitted that the petitioner have already drawn a demand draft dated 26.02.2021 for Rs.25 lakhs drawn on State Bank of India, Kodambakkam Branch, Chennai in favour of "Carrieall CAR Private Limited A/c Bank of Baroda" The counsel for the petitioners also handed over the demand draft to the counsel for the respondent bank in the open court and he has also received the cheque.

6. In the light of the above facts, taking note of the fact that the dispute between the petitioners and the respondent is the subject matter of proceedings pending before the Debts Recovery Tribunal, Chennai, we refrain from interfering with the communication, which is impugned in this writ petition. The writ petition is therefore dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. The petitioners are directed to work out their remedy in the SARFAESI proceedings initiated by the respondent and pending before the Debt Recovery Tribunal, Chennai.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rsh

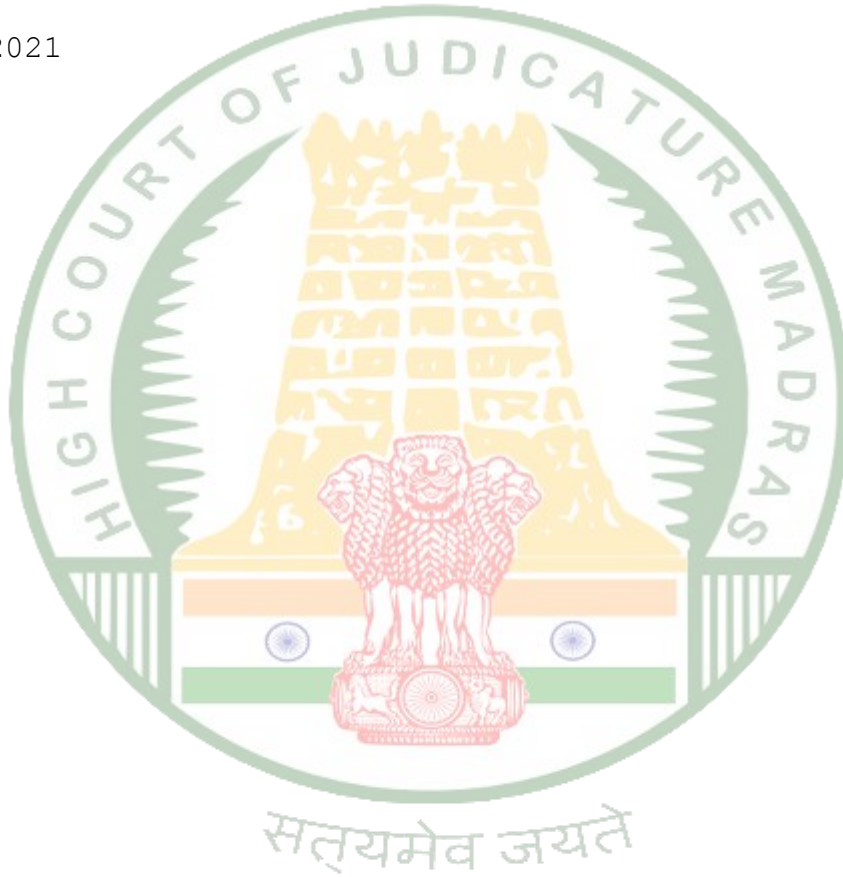
To

The Authorised Officer
Bank of Baroda
Asset Recovery Management Branch
No.74, Theagaraya Road
T.Nagar, Chennai - 600 017

+1cc to Mr.S.Pandurangan, Advocate, S.R.No.11992

WP.No.5080 of 2021

PMK(CO)
CS/24/03/2021



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