



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.13756 of 2021

Sanji Steels

..Petitioner

Vs.

1. Tamilnadu Mercantile Bank
rep. by its Authorised Officer
D.No.43, Kovai Road
Padma Towers, 1st Floor
Karur District - 639 002.
2. The Registrar
Debts Recovery Tribunal, Coimbatore
Jawan's Bhawan, 2nd & 3rd Floor
27, Travellers Bungalow Road
Coimbatore 641 018.
3. The Registrar
Debts Recovery Tribunal, Madurai
III & IV Floor, Kalyani Towers
4/162 Madurai-Melur Road, Uthangudi
Madurai 625 107.
4. The Learned Chief Metropolitan Magistrate
Principal District Court Complex
Combined Court Building
Thanthonimalai, Karur 639 007.

..Respondents

[R2 to R4 deleted vide order dt. 22.07.2021
made in WP No.13756 of 2021]

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings on the file of respondents 2 to 4 regarding the SARFAESI proceedings initiated against the petitioner and quash all proceedings initiated by the first respondent after the order of conditional stay in IA No.2793 of 2018 in SA No.565 of 2018 dated 08.11.2018 passed by the learned third respondent and pass appropriate direction, directions to transfer the SARFAESI Application in SA 565 of



2018 renumbered as TSA 219 of 2019 from the file of the Learned 2nd respondent to the file of the learned 3rd respondent who has originally passed an order of conditional stay in I.A.No.2793 of 2018 in SA No.565 of 2018 dated 08.11.2018.

WEB COPY

For Petitioner : Mr.P.Jesus Moris Ravi
For Respondents : Mr.N.Dilip Kumar
for R-1

ORDER
(Made by the Hon'ble Chief Justice)

The facts fall within a short compass. To begin with, the petitioner defaulted in making repayments to the secured creditor that resulted in the respondent-secured creditor resorting to measures under Section 13 (4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. According to the petitioner, it approached the Debts Recovery Tribunal in Madurai and an interim order was passed by such tribunal imposing certain conditions. The petitioner claims to have complied with the conditions and made payment in terms thereof to the secured creditor. It is the petitioner's further contention that for reasons unbeknown to the petitioner, the matter was transferred to the Debts Recovery Tribunal, Coimbatore. The petitioner questions the propriety of the Debts Recovery Tribunal, Coimbatore permitting the sale of the securities without realising that the conditional injunction passed by the Debts Recovery Tribunal, Madurai was in place and the petitioner had adhered to the conditions to obtain the benefit of the embargo placed by such order.

3. The petitioner acknowledges that as a consequence of the Debts Recovery Tribunal, Coimbatore permitting the secured creditor to undertake the sale, the immovable security has been sold at an auction and the sale transaction has been completed by receipt of the full consideration and issuance of the sale certificate. The petitioner also admits that the auction-purchaser has been put in possession of the relevant property. However, it is the petitioner's grievance that the Debts Recovery Tribunal, Coimbatore could never have given leave to the respondent secured creditor to proceed in the matter since the embargo in terms of the earlier injunction passed by the



Debts Recovery Tribunal, Madurai was in place upon the petitioner fulfilling the conditions for such embargo to operate. What the matter boils down to is that, at the highest, the secured creditor in this case may have disregarded an injunction to proceed with the sale of the property or, the Debts Recovery Tribunal, Coimbatore failed to appreciate the scope and effect of the interim order passed by the Debts Recovery Tribunal, Madurai or take into cognizance the petitioner's compliance of the conditions indicated in the relevant order.

4. Whatever may have been the case, it is undeniable that an order was passed by the Debts Recovery Tribunal, Coimbatore permitting the secured creditor to proceed with the auction and such auction has not only been completed, but the sale has been concluded by receipt of consideration and issuance of sale certificate. In the circumstances, it may no longer be possible for the petitioner herein to obtain the property as title therein may have validly passed. However, to the extent that the petitioner may be justified in asserting that the procedure adopted by the secured creditor and the purchaser may have been flawed and in the teeth of a subsisting injunction, the petitioner may have a claim in damages which the petitioner must be permitted to pursue.

5. Accordingly, W.P.No.13756 of 2021 is disposed of by issuing the following directions:

- i. Any matter that has been filed by the petitioner and proceedings pending before any Debts Recovery Tribunal should be disposed of in accordance with law as expeditiously as possible, preferably within the next three months;
- ii. Subject to the outcome of the proceedings before the Debts Recovery Tribunal, now transferred to Coimbatore, the petitioner is granted leave to file a suit against the secured creditor in respect of the loss or damages that the petitioner may have suffered on account of the perceived arbitrary conduct of the secured creditor.

There will no order as to costs. WMP Nos.14600 and 14602 of 2021 are closed.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

sra



To:

The Authorised Officer
Tamilnad Mercantile Bank
D.No.43, Kovai Road
Padma Towers, 1st Floor
Karur District - 639 002.
+1cc to Mr.N.Dilipkumar, Advocate, Sr.No.36648

W.P.No.13756 of 2021

SR II(CO)
KKV/03/08/2021