

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.05.2021

CORAM:

THE HON'BLE Dr. JUSTICE ANITA SUMANTH

AND

THE HON'BLE Mr. JUSTICE SENTHILKUMAR RAMAMOORTHY

WP Nos.11995 & 12001 of 2021
and WMP Nos.12760 & 12761 of 2021

1. M/s.Amaravathi Spinning Mills (RJPM) Ltd.,
Rep. by its Director S.Sanjeevi,
having its office at D.No.109/D-7/1,
SankaralingaMooppanar Street,
Rajapalayam - 626 102. ... Petitioner in WP.No.11995 of 2021

2. M/s.SriVenkatramana Paper Mills P. Ltd.,
Rep. by its Director S.Sanjeevi,
having its office at No.15, Sreevatsa Enclave,
Mettupalayam Road,
Thudiyalur,
Coimbatore - 641 029. ... Petitioner in W.P.No.12001 of 2021

vs.

The Authorised Officer,
State Bank of India,
Stressed Assets Management Branch,
1112, Raja Plaza,
Avinashi Road,
Coimbatore - 641 037

... Respondent in both W.Ps.

Common Prayer: WRIT Petitions filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the respondent to defer further action pursuant to sale notice dated 08.04.2021 under Section 8(9) of the SARFAESI Act, 2002 and published in the Indian Express News Paper on 08/04/2021, of the sale proposed to be held on 20/05/2021 by the respondent bank, till the normalcy is restored in the day today activities.

For Petitioners : Mrs.A.Kundavai
in both W.Ps.

For Respondent : Mr.M.L.Ganesh
in both W.Ps. Standing Counsel for State Bank of India.

COMMON ORDER

(Order of the Court was made by Dr.ANITA SUMANTH, J.)

These writ petitions have been filed by M/s.Amaravathi Spinning Mills (RJPM) Pvt. Ltd., Rajapalayam and M/s. Sri Venkatramana Paper Mills P. Ltd., Coimbatore, respectively, seeking mandamus directing the respondent, who is the Authorised Officer, State Bank of India, Stressed Assets Management Branch, Coimbatore, to defer further action, pursuant to the sale notice dated 08.04.2021, issued under the provisions of the SARFAESI Act, of the properties which were given as security for financial accommodation in regard to which the petitioners have admittedly defaulted.

2. When these matters came up for hearing, yesterday i.e. on 19.05.2021, Mr.M.L.Ganesh, learned standing counsel had accepted notice for the respondent bank. The matters were listed today to enable the learned counsel for the petitioners to take instructions on withdrawal of the writ petitions. The Registry is also in receipt of an e-mail from the learned counsel on record conveying the intention of the petitioners to withdraw the writ petitions and stating that the petitions may be dismissed as withdrawn.

3. However, when these matters were called for hearing, Mr.M.L.Ganesh, standing counsel for the respondent bank brings to our notice the sequence of events that has transpired in this matter, and the suppression of facts by the petitioner. To begin with, the affidavits filed in support of the writ petitions are silent in regard to the SARFAESI Appeals (SAs) filed by the petitioners before the Debts Recovery Tribunal ('DRT') on 15.05.2021. The present writ petitions have been filed on 17.05.2021 and the petitioner should have disclosed the fact that the DRT had been approached even prior to filing the present writ petitions.

4. Secondly, Mr.Ganesh, states that the SAs had been heard by the DRT at the instance of the petitioners around noon on 19.05.2021 and interim protection obtained. While the auction has been permitted to be proceeded with, the confirmation of the sale has been stayed until further orders of the DRT. This communication seeking withdrawal of writ petitions suppresses these facts.

5. There has thus, been rank suppression of material facts, both at the time of filing the writ petitions, as well as in the request for their withdrawal.

6. For the aforesaid reasons, the writ petitions are dismissed with costs of a sum of Rs.1,00,000/- [Rupees One Lakh Only], payable to Cancer Institute, Chennai, with a period of two weeks from today. Memo of compliance be filed with the Registry of this Court, accompanied by proof of remittance of costs. Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VII)

ars/gya
To

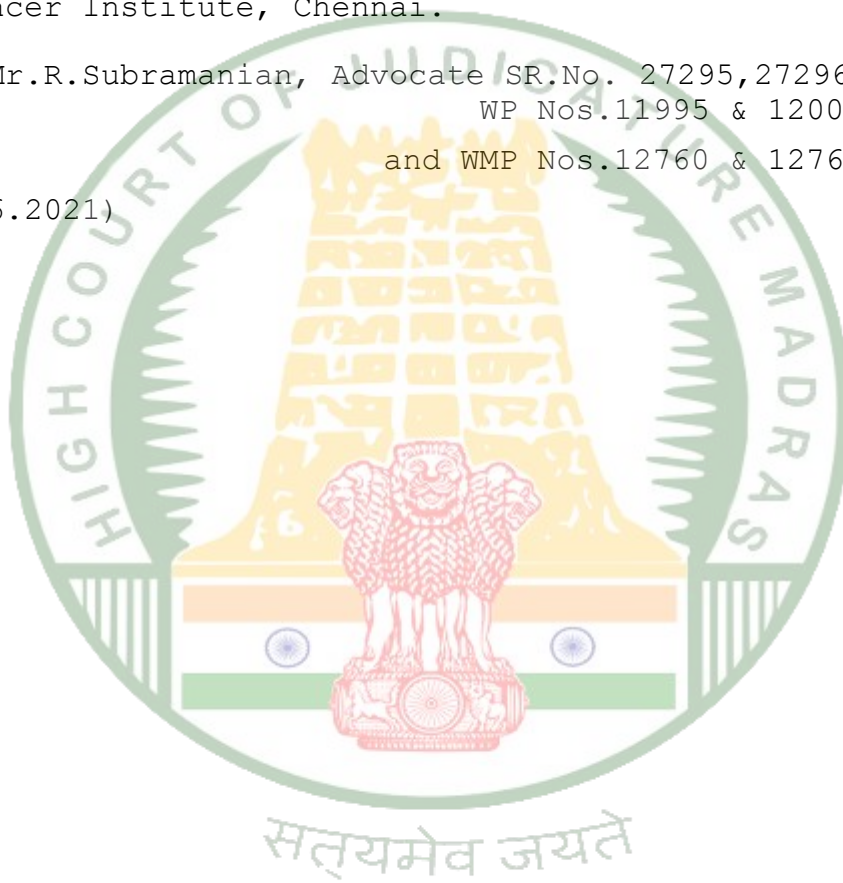
The Authorised Officer,
State Bank of India,
Stressed Assets Management Branch,
1112, Raja Plaza,
Avinashi Road,
Coimbatore - 641 037

2. The Section Officer,
Writ Section,
High Court, Madras

3. The Cancer Institute, Chennai.

+2ccs to Mr.R.Subramanian, Advocate SR.No. 27295,27296
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A.SK(29.06.2021)



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