

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.13521 of 2021

Sri Vakirakaaliamman Spinning Mills Pvt. Ltd.
R.Jagadeeswaran
Director/Guarantor
No.14, R.M.Illam
Thennampalayam Extension Gross
Tiruppur 641 604.

..Petitioner

Vs.

State Bank of India
rep. by its Authorised Officer &
Assistant General Manager
Stressed Assets Management Branch
1112, Raja Plaza
Avinashi Road
Coimbatore 641 037.

..Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent in auction notice No.SAMB/CBE/CLO-II/88 dated 01.06.2021 published in the news paper "The Indian Express" dated 06.06.2021 scheduled to be held on 29.06.2021 is illegal and quash the same and consequently, direct the respondents to grant extension of time for five months to settle the amount as per the respondent based upon the one time settlement letter dated 20.10.2020.

For Petitioner : Mr.K.Rajendra Prasad

For Respondent : Mr.M.L.Ganesh

ORDER

(Made by the Hon'ble Chief Justice)

Though the petition is directed against a sale notice published by the respondent secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the petitioner submits that the one-time settlement offer made by the secured creditor on October 20, 2020 should be permitted to be availed of by the petitioner.

2. As far as the sale notice dated June 1, 2021 is concerned, the secured creditor reports that no offers were received and fresh steps may have to be taken for sale of the securities furnished. It is also the submission of the secured creditor that the one-time settlement offered by the letter of October 20, 2020, required the payment thereunder to be made in tranches, but within the dates specified in the letter of offer. The secured creditor says that the offer was made uniformly to all similarly placed borrowers and several borrowers have taken advantage of the offer and settled their dues.

3. The secured creditor maintains that the time to take up the offer in terms of the OTS has not been extended and it may not be fair to extend it in one case just because the borrower has come to Court, though several other similarly placed borrowers have been denied the OTS after the expiry of the relevant dates.

4. Ordinarily, a challenge to the measures taken by a secured creditor under the Act of 2002 is not entertained in this extraordinary jurisdiction since there is an efficacious alternative remedy available to any person aggrieved by such measures to approach the jurisdictional Debts Recovery Tribunal under Section 17 of the said Act. As far as the OTS is concerned, the offer letter clearly spelt out that if the full amount of OTS was paid in three tranches, latest by March 31, 2021, there would be a further incentive. It also provided an incentive for payment of 50% of the OTS amount. The dates by which the payments had to be made were clearly indicated.

5. There is no good reason why a special case has to be made for this petitioner or any misplaced sympathy should be shown by the Court just because a defaulter is before Court and seeking to invoke the imaginary mercy jurisdiction of the Court.

6. W.P.No.13521 of 2021 is dismissed without going into the merits of the allegations against the bank since the petitioner may carry the same to the appropriate Debts Recovery Tribunal in accordance with law. The settlement terms offered by the bank cannot be modified by the Court without the bank agreeing to the same and extending the courtesy to all other similarly placed. There will be no order as to costs. WMP No.14385 of 2021 is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

The Authorised Officer &
Assistant General Manager
State Bank of India
Stressed Assets Management Branch
1112, Raja Plaza
Avinashi Road
Coimbatore 641 037.

Copy to
The Debts Recovery Tribunal
Coimbatore

W.P.No.13521 of 2021

AKII (CO)
SP(05/07/2021)