



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2021

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Coram

The Honourable Mr. Justice R. MAHADEVAN

W.P.No.15144 of 2021
and W.M.P.No.16044 of 2021

Mrs. Remibai Jeppiaar

...Petitioner

Versus

The Branch Manager,
Wilful Defaulter Screening Committee,
Stress Assets Management Branch,
Indian Bank,
No.55, Ethiraj Salai,
Wellington Estate, II Floor,
Egmore, Chennai - 600 008.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the respondent Bank dated 21.05.2021 bearing No.SAMB/CHE/68/2020-21 and quash the same.

For Petitioner : Mr.A.L.Somiyaji,
Senior Counsel
for Mr.P.J.Rishikesh

For Respondent : Mr.Jayesh Dolia
for M/s.Aiyar & Dolia

O R D E R

With the consent of both sides, this writ petition is taken up for final disposal.

2. Calling in question the show cause notice dated 21.05.2021 bearing No.SAMB/CHE/68/2020-21 issued by the respondent bank, the petitioner has come up with this writ petition.



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3.The case projected in the writ petition is as follows:

3.1 The petitioner had executed a deed of guarantee dated 23.11.2013 to secure the repayment of loans advanced by the respondent Bank to the company named M/s.Jeppiaar Power Corporation Pvt. Ltd. But the said company failed to repay that loan, which compelled the respondent Bank to issue a Demand Notice dated 15.10.2018 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act'), to the petitioner as well as the Directors of the said Company, thereby declaring the said company's loan account as a Non Performing Asset.

3.2 Subsequently, the respondent Bank also initiated the SARFAESI proceedings, against the said company, besides filing a petition in IBA.No.128 of 2019 before the National Company Law Tribunal Division Bench, Chennai (for brevity, 'NCLT') praying to initiate Corporate Insolvency Resolution Process. The NCLT vide order dated 25.06.2020 in I.A.No.149 of 2020, ordered the company under liquidation and appointed one Mr.S.R.Shriram Shekher as Liquidator.

3.3 In the mean while, the respondent Bank filed a petition in IBA.No.590 of 2020 against the petitioner in her capacity as a guarantor of the company. During the pendency of the same, the respondent Bank issued a notice dated 21.05.2021 to the petitioner and the Directors of the company, calling upon them to show cause within 15 days from the date of receipt of that notice, as to why they should not be declared as wilful defaulter as per the guidelines of the Reserve Bank of India. Aggrieved by the same, the petitioner is before this court with the present writ petition for the aforesaid relief.

4.The learned senior counsel for the petitioner submitted that the petitioner has not been served with a copy of the decision taken by the Wilful Defaulter Screening Committee of the Bank (hereinafter referred to as 'WDSC') in its order dated 29.10.2020 and the Forensic Audit Report dated 19.03.2019 submitted by M/s.Thomas Jacob & Co., based on which, the impugned show cause notice came to be issued by the respondent bank and hence, the same is liable to be quashed as it is per se arbitrary, illegal and in violation of the principles of natural justice.





(ii) On such representation being made, the respondent bank shall furnish copies of the same, within a period of two weeks thereafter.

(iii) On receipt of the copies, the petitioner shall submit her reply enclosing documentary evidence, if any, to the show cause notice, within a period of three weeks therefrom.

(vi) Thereafter, the respondent bank shall consider the same and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as any other interested parties, within a period of two weeks.

10. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

mrr

To

The Branch Manager,
Wilful Defaulter Screening Committee,
Stress Assets Management Branch,
Indian Bank,
No.55, Ethiraj Salai,
Wellington Estate, II Floor,
Egmore, Chennai - 600 008.

+1CC to M/s.Aiyar & Dolia, Advocate, SR.No. 48767

+1CC to M/s.P.J.Rishikesh, Advocate, SR.No. 48365

W.P.No.15144 of 2021

BR(CO)

B.VC (13/10/2021)