IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.NO.17744 OF 2020

AND

WMP.Nos.22000 AND 22001 OF 2020

Jayanthi Ramachandra ... Petitioner

Vs

1. JM Financial Asset Reconstruction Company Ltd.,
   rep. by the Authorised Officer,
   7th Floor, Cnergy, Appasaheb Marathe Marg,
   Prabhadhevi, Mumbai – 400 025.

2. The Official Liquidator,
   High Court, Madras,
   As the Liquidator of M/s.VTX Industries Ltd. (In Liq.)
   No.29, Corporate Bhavan,
   2nd Floor, Rajaji Salai,
   Chennai – 600 001.

3. United Bank of India
   (Previously Andhra Bank),
   Main Branch, No.17, Mill Road,
   Coimbatore – 641 001.

4. M/s.Yes Bank Limited,
   9th Floor, Nehru Centre, Disovery of India,
   Dr. Annie Besant Road, Worli,
   Mumbai – 400 018.

5. Coimbatore Periyar District Thravida
   Panjalai Thozhilalar Munnetra Sangam,
   rep. by its Secretary K.Rajendran,
   No.2/189, Palladam Road,
   Puliampatti Post,
   Pollachi Taluka, Coimbatore-642 002.

6. M/s.Kovai Builders and Property Developers Pvt. Ltd.,
rep. by its Director,
No.99/20 D, Chettipalayam Main Road,
Easwar Nagar (Bus Stop),
Podanur, Coimbatore - 641 023.

7. M/s.Subha Ganeshwar Spintex LLP,
No.21, A 2, Pollachi Road,
Palladam - 641 664. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the Sale Notice dated 09.11.2020 on the file of the first respondent and to quash the said Sale Notice and all actions of the first respondent under the provisions of SARFAESI Act in dealing with the assets of the M/s.VXT INDUSTRIES LTD., the Company in Liquidation.

For Petitioner : Mr.E.Om Prakash
Senior Counsel
for M/s.Ramalingam and Associates

For Respondents : Mr.Srinath Sridevan
for respondent No.1

: Mr.Bavichetty Sridhar
Dy. Official Liquidator
for respondent No.2

: Mr.A.Thiyagarajan
for respondent No.7

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This is a petition challenging the sale notice without any person who may have perceived himself to be aggrieved by the measures taken by the secured creditor under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 having carried such grievance to the appropriate forum in accordance with Section 17 of the said Act.

2. The sale notice was issued pursuant to steps being taken under Section 13(4) of the Act qua the secured assets. The

moment measures are taken under Section 13(4) of the Act, a right accrues to any person aggrieved thereby to approach the Debts Recovery Tribunal. However, there are always conditions to be complied with while approaching the Debts Recovery Tribunal and it is often the practice to obtain a substantial deposit before fanciful claims are permitted to be bandied before such forum.

3. There is no doubt that the petitioner and the others seeking to support the petitioner here wanted to delay the matter by challenging the sale notice, but without either having the money to deposit or, at any rate, willing to risk making any deposit. Even the Official Liquidator, who is represented since the company in this case has gone into liquidation, has not approached the Debts Recovery Tribunal. Since the Official Liquidator is expected to be a neutral person and ought to be protecting the interest of all creditors of the company in liquidation, it may reasonably be inferred that the Official Liquidator has no grievance in respect of the steps taken by the secured creditor.

4. For the reasons aforesaid and since there can be no sequitur to this petition, W.P.No.17744 of 2020 is dismissed by leaving all the parties free to carry their grievances in respect of the measures taken by the secured creditor to the appropriate forum. Such forum may pass such orders as may be deemed fit.

5. Nothing in this order must be seen to be a recognition of the rights of the petitioner to maintain any action under Section 17 of the Act of 2002 or before the Official Liquidator. It will be for the appropriate forum to test whether the petitioner has any locus standi to carry the matter to it.

All interim orders stand vacated. There will be no order as to costs. Consequently, W.M.P.Nos.22000 and 22001 of 2020 are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:

1. The Official Liquidator,
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   As the Liquidator of M/s.VTX Industries Ltd. (In Liq.)
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3. M/s.Yes Bank Limited,
   9th Floor, Nehru Centre, Disovery of India,
   Dr. Annie Besant Road, Worli,
   Mumbai - 400 018.

+1cc to Mr.A.Thiyagarajan, Advocate, S.R.No.9599
+1cc to Mr.Srinath Sridevan, Advocate, S.R.No.9384
+1cc to Mr.S.Sathiyanarayanan, Advocate, S.R.No.9365
+1cc to M/s.Ramalingam and Associates, S.R.No.10153

W.P.No.17744 of 2020 &
WMP.Nos.22000 AND 22001 OF 2020

AKII(CO)
CS/18/03/2021