

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 19.01.2021
CORAM
THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN
WP.No.19925/2020 & WMP.No.24598 & 24600/2020

[Video Conferencing]

T.Ramalingam

.. Petitioner

Versus

1.The Authorised Officer
Union Bank of India [Erstwhile Andhra Bank]
Pollachi Branch, Pollachi,
Coimbatore District.

2.T.Vijayakumar

3.The Debt Recovery Tribunal
Coimbatore.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the letter bearing No.Lr.No.1213/45/80 dated 20.05.2020 issued by the 1st respondent Bank made in respect of scheduled mentioned property and to quash the same and consequently, to issue directions to the 3rd respondent to take up the application in SA.SR.No.4594 of 2020, number the same and dispose the same on merits.

For Petitioner : Mr.R.Nandha Kumar

For Respondents: Mr.P.Veeraraghavan for R1
Mr.S.Venkatesh for R2

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

(1)The petitioner has availed Housing Loan for a sum of Rs.6.50 Lakhs in the year 2012 and for the due repayment, also created a security in respect of an immovable property/asset. The petitioner is also running an MSME Unit in the name of his wife and due to vagaries of business, the account of the petitioner came to be classified as Non Performing Account on 30.11.2018

and proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [in short 'SARFAESI Act'] came to be initiated.

- (2) The learned counsel for the petitioner would submit that though it is claimed by the 1st respondent-Bank that a Demand Notice dated 03.12.2018 under Section 13[2] of the SARFAESI Act came to be issued, demanding a sum of Rs.5,35,377/- followed by the Possession Notice dated 13.12.2019, the said notices have not been served and in utter violation and disregard to the relevant statutory provisions, E-Auction was conducted on 27.03.2020 and the secured asset was sold for a sum of Rs.9.25 Lakhs in favour of the third party and a Sale Certificate also came to be issued on 20.04.2020.
- (3) It is the submission of the learned counsel for the petitioner that challenging the impugned Sale Notice dated 05.03.2020, the petitioner filed SARFAESI Appeal before the 3rd respondent-Tribunal in SA.SR.No.4594 of 2020 and papers were returned for want of copies of the notices issued u/s.13[2] and 13[4] of the SARFAESI Act and despite it has been pointed out that the petitioner did not receive the said notices, the 3rd respondent-Tribunal is insisting upon the same and therefore, the petitioner is constrained to approach this Court, by filing the present writ petition.
- (4) This Court had taken note of the said submission and ordered notices to the 1st respondent-Bank and Mr.P.Veeraraghavan, learned Standing counsel has entered appearance on behalf of the 1st respondent-Bank.
- (5) The learned counsel for the petitioner, on instructions, would submit that subsequently, the 1st respondent-Bank has furnished copies of notices u/s.13[2] and 13[4] of the SARFAESI Act, and therefore, this Court may pass appropriate directions to the Registrar of the 3rd respondent-Tribunal to number the SARFAESI Appeal and take up the petition for interim relief at the first instance and give a disposal in accordance with law at an early date.
- (6) This Court heard the submissions of Mr.P.Veeraraghavan, learned Standing counsel appearing for the 1st respondent-Bank.
- (7) This Court, taking into consideration the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in the SARFAESI Appeal as well in this writ petition, permits the petitioner to represent the papers along with the copies of the notices dated 03.12.2018 and 13.12.2019 respectively issued u/s.13[2] and 13[4] of the SARFAESI Act to the Registrar of the Debts Recovery

Tribunal at Coimbatore in the form of representation within a period of two weeks from the date of receipt of a copy of this order/uploading of the order in the website and if the papers are otherwise in order, the Registrar of DRT, at Coimbatore, may number the appeal in SA.SR.No.4594 of 2020. The 3rd respondent-Tribunal is also requested to take up the petition for interim relief at the first instance and pass orders in accordance with law as expeditiously as possible.

(8)The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

ap
To

1.The Authorised Officer
Union Bank of India [Erstwhile Andhra Bank]
Pollachi Branch, Pollachi,
Coimbatore District.

2.The Debt Recovery Tribunal
Coimbatore.

COPY To:-
The Registrar
Debts Recovery Tribunal
Coimbatore.

+1 cc to M/s.R.Nandhakumar Advocate sr2504
+1 cc to Mr.S.Venkatesh Advocate sr3338

WP.No.19925/2020

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