BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.08.2021
CORAM :
THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.(MD) No.18176 of 2015
and
M.P(MD)No.1 of 2015

Sree Kathiir Silks,
Represented by its Partner ... Petitioner

vs.

1)The Indian Bank,
Rep by its Chairman
Rajaji Salai,
Chennai 600 001.
2)The Zonal Manager,
Indian Bank, Zonal Office,
Perumalpuram,
Tirunelveli 627 007.
3)The Branch Manager/Authorized Officer,
Indian Bank, Virudhunagar Branch,
No.176 Ramamorthy Road,
Virudhunagar 626 001. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent herein dated 18.9.2015 and quash the same and consequently forbear the respondents herein, their men, agents, servants, subordinates or any officer or officers authorised by them from in any manner taking any coercive steps for recovery of the amounts which are claimed as due from the petitioner under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

For Petitioner : Mrs.A.L.Ganthimathi

ORDER

[Order of the Court was made by ***The Hon'ble Chief Justice***]

The petitioner complains of the failure by the respondents/secured creditor to consider the petitioner's request for one time settlement.

2.There is no law that compels a secured creditor to consider half-baked plans for repayment put forward by defaulting borrowers. At any rate, the rights available to secured creditor under the Securitization and Reconstruction of Financial Assets and

Enforcement of Security Interest Act, 2002, cannot be deferred on the rules that a request for settlement has been made by the defaulting borrower.

3.Upon an account turning NPA, as per the Reserve Bank guidelines, a secured creditor answering to such description under the Act of 2002, is entitled to demand immediate repayment by issuing a notice under Section 13(2) of the said Act. The borrower may respond with any defence and it is incumbent on the secured creditor to consider the response to the notice and communicate the secured creditor's decision thereon. However, even if the response is rejected, the original notice and the rejection of the response are not justiciable at this stage.

4.The secured creditor is thereupon entitled to take measures under Section 13(4) of the Act 2002. Upon such measures being taken, any person aggrieved may approach the jurisdictional Debt Recovery Tribunal under Section 17 of the Act to raise whatever grievance that is possible.

5.In the circumstances, the petitioner in the present case is found to have barked up a wrong tree in approaching this Court under Article 226 of the Constitution when there was an efficacious alternative remedy available to the petitioner.

6.Accordingly, W.P(MD)No.18176 of 2015 is disposed of by leaving the petitioner free to approach the appropriate forum in accordance with law. In the event, there has been any delay on the petitioner's part, the petitioner has only itself to blame.

7.There shall be no order as to costs. M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

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W.P(MD)No.18176 of 2015
DATED : 24.08.2021

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