



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2022

CORAM :

THE HON'BLE MR.JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

W.P.NO.1642 OF 2022
AND
W.M.P.NOS.1791 & 1794 OF 2022

1. Mrs.Praveena
2. P.Periyasamy Gounder

.. Petitioners

vs.

1. The Authorized Officer,
M/s. Indian Bank,
No.9, Gandhiji Road,
Erode Main Branch,
Erode - 638 001.
2. M/s. Indian Bank,
No.9, Gandhiji Road,
Erode Main Branch,
Erode - 638 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, calling for the records pertaining order in I.A.No.3709 of 2021 in S.A.No.893 of 2021 dated 30.12.2021 passed by the Debts Recovery Tribunal, Coimbatore in so far as the condition imposed to pay Rs.50,00,000/- on or before 27.01.2022 and another sum of Rs.50,00,000/ on or before 24.02.2022 to the 2nd respondent/Bank and quash the same as illegal and onerous.

For Petitioner : Mr.P.Thamilvel



O R D E R

(Order of the Court made by M.DURAI SWAMY, J.)

Challenging the order passed in I.A.No.3709 of 2021 in S.A.No.893 of 2021, the borrowers have filed the above Writ Petition.

2.1 Challenging the order issued by the Chief Judicial Magistrate, Tirupur, dated 30.11.2021, under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act'), the borrowers have filed an appeal in S.A.No.893 of 2021 on the file of the Debts Recovery Tribunal, Coimbatore. In the said appeal, the borrowers filed a Stay Petition in I.A.No.3709 of 2021 seeking for stay of all further proceedings.

2.2 The Debts Recovery Tribunal, Coimbatore, by the impugned order dated 30.12.2021, granted an order of interim stay on condition that the petitioners-applicants paying a sum of Rs.1,00,00,000/- [Rupees one crore only] to the respondent-bank in two installments of Rs.50,00,000/- {Rupees fifty lakhs only} each. The 1st instalment was to be paid on or before 27.01.2022 and the 2nd installment of Rs.50,00,000/- {Rupees fifty lakhs only} has to be paid on or before 24.02.2022.

3. Though the date fixed for payment of 1st installment had expired on 27.01.2022, the learned counsel appearing for the petitioners submitted that the petitioners-borrowers have not complied with the orders of the Debts Recovery Tribunal.

4. On a perusal of the notice issued under section 13(2) of the SARFAESI Act, it could be seen that the respondent-bank sanctioned the loan on 10.11.2017 and in the said notice, the respondent-bank called upon the borrowers to pay a sum of Rs.1,99,05,858/- [Rupees one crore ninety nine lakhs five thousand eight hundred and fifty eight only] as on 09.11.2020, within 60 days. In spite of receiving the said notice, the petitioners did not pay any amount to the respondent-bank. Thereafter, notice under section 13(4) was issued to the borrowers and also an application under section 14 of the SARFAESI Act was filed before the Chief Judicial Magistrate, Tirupur and the Chief Judicial Magistrate, by order dated 30.11.2021, directed the respondent-bank to take physical possession of the mortgaged property. Challenging the said order, the borrowers have filed the appeal before the Debts Recovery Tribunal, Coimbatore.



5. When the loan amount has not yet been repaid by the borrowers in spite of the notices issued under section 13(2) and 13(4), the discretionary order passed by the Debts Recovery Tribunal for granting an order of interim stay cannot be found fault with by the borrowers. When the respondent-bank is dealing with the public money, the borrowers are bound to repay the loan amount without any default. In the notice dated 30.04.2021, the respondent-bank claimed a sum of Rs.2,08,33,943/- [Rupees two crores eight lakhs thirty three thousand nine hundred and forty three only] from the borrowers. In these circumstances, the conditional order passed by the Debts Recovery Tribunal directing the petitioners to pay a sum of Rs.1,00,00,000/- [Rupees one crore only] in two installments is just and proper. We do not find any error or irregularity in the order passed by the Debts Recovery Tribunal. The Writ Petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Authorized Officer,
M/s. Indian Bank,
No.9, Gandhiji Road,
Erode Main Branch,
Erode - 638 001.
2. The Debts Recovery Tribunal,
Coimbatore.

W.P.No.1642 of 2022

PMK (CO)

RLP (18/02/2022)