



W.P.Nos.28954, 28955 and 28956 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos.28954, 28955 and 28956 of 2022

W.P.No.28954 of 2022:

JM Financial Asset Reconstruction Co. Ltd.,  
(acting in its capacity as trustee  
of JMFARC – SBI March 2014)  
Energy 7<sup>th</sup> Floor,  
Appasaheb Marathe Marg,  
Prabadevi, Mumbai-400 025.

.. Petitioner

Vs

- 1.Union of India,  
Department of Financial Services,  
Ministry of Finance,  
3<sup>rd</sup> Floor, Jeevan Deep Building,  
Sansad Marg, New Delhi-110 001.
- 2.The Debts Recovery Tribunal-II,  
by its Registrar,  
6<sup>th</sup> Floor, Additional Office Building  
Shastri Bhavan, Haddows Road,  
Nungambakkam, Chennai-600 006.



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3.The Debts Recovery Tribunal-III,  
by its Registrar,  
6<sup>th</sup> Floor, Annex Building,  
Shastri Bhavan, Haddows Road,  
Nungambakkam, Chennai-600 006.

4.The Recovery Officer,  
The Debts Recovery Tribunal-II,  
6<sup>th</sup> Floor, Additional Office Building  
Shastri Bhavan, Haddows Road,  
Nungambakkam, Chennai-600 006.

5.M/s.Kundil Sponge Iron Limited,  
rep. by its Director S C Baruah,  
No.610, Shiv Towers,  
Patto Plaza, Panaji,  
Goa-403 001.  
also at  
A1/A2, Kundaim Industrial Estate,  
NH 4A, Kundaim,  
Goa-403 115.  
and also at  
305, ShukravarPeth, Church Road,  
Londa, Belgaum District,  
Karnataka State, PIN-591 031.

6.Sri Surajit Chandra Baruah

7.Sri Vijay Kashyap

8.Sri Chiranjib Baruah

.. Respondents

W.P.No.28955 of 2022:

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Shastri Bhavan, Haddows Road,  
Nungambakkam, Chennai-600 006.
- 5.M/s.Kundil Infrastructure Company Limited,  
rep. by its Managing Director S C Baruah,  
No.610, Shiv Towers,  
Patto Plaza, Panaji,  
Goa-403 001.

also at  
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7.Sri Vijay Kashyap

8.Sri Chiranjib Baruah

9.M/s.Kundil Power Supply Co. Ltd.,  
rep. by its Director S C Baruah  
610, Shiv Towers,  
Patto Plaza, Panaji, Goa-403 001.

10.M/s.Kundil Ispat Limited,  
rep. by its Director S C Baruah,  
305, ShukravarPeth,  
Church Road, Londa, Belgaum District,  
Karnataka State – 591 031.

11.M/s.Kundil Alloys P. Ltd.,  
rep. by its Director S C Baruah,  
A1/A2, Kundaim Industrial Estate,  
NH 4A, Kundaim, Goa-403 115.

12.M/s.Mandovi Metals Pvt. Ltd.,  
rep. by its Director S C Baruah,  
200A, Kundaim Industrial Estate,  
Kundaim, Goa-403 115.

13.M/s.Kundil Rolling Mills Ltd.,  
rep. by its Managing Director S C Baruah,  
A1/A2, Kundaim Industrial Estate,  
NH 4A, Kundaim, Goa-403 115.

..

Respondents



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W.P.No.28956 of 2022:

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5.M/s.Kundil Dhatu Limited,  
rep. by its Director S C Baruah  
No.610, Shiv Towers, Patto Plaza,  
Panaji, Goa-403 001.

6.Sri Surajit Chandra Baruah

7.Sri Vijay Kashyap

8.Sri Chiranjib Baruah

9.M/s.Kundil Sponge Iron Limited,  
rep. by its Director S C Baruah,  
305, ShukravarPeth, Church Road,  
Londa, Belgaum District,  
Karnataka State, PIN-591 031.

10.M/s.Kundil Power Supply Co. Ltd.,  
rep. by its Director S C Baruah,  
Londa Village, Khanapur Taluk,  
Belgaum District.

11.M/s.Kundil Infrastructure Company Limited,  
rep. by its Director S C Baruah,  
No.610, Shiv Towers,  
Patto Plaza, Panaji,  
Goa-403 001.

..

Respondents

Prayer: W.P.No.28954 of 2022 filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the fourth respondent to conduct the e-auction as scheduled as per the notice dated 22.09.2022 in DRC No.293 of 2017 in OA No.132 of 2012.

W.P.No.28955 of 2022 filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the fourth respondent to conduct the e-auction as scheduled as per the notice dated 22.09.2022 in DRC No.291 of 2017 in OA No.93 of 2012.



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W.P.No.28956 of 2022 filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the fourth respondent to conduct the e-auction as scheduled as per the notice dated 22.09.2022 in DRC No.290 of 2017 in OA No.100 of 2012.

For the Petitioner : Mr.Om Prakash  
Senior Counsel  
for Mr.P.Sugumaran

COMMON ORDER

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

JM Financial Asset Reconstruction Company Limited has filed three writ petitions with a common prayer to issue a writ of mandamus to direct the fourth respondent, i.e., the Recovery Officer, Debts Recovery Tribunal-II, Chennai, to conduct e-auction as per the notice dated 22.9.2022 in DRC No.293 of 2017 in OA No.132 of 2012; notice dated 22.09.2022 in DRC No.291 of 2017 in OA No.93 of 2012; and, notice dated 22.09.2022 in DRC No.290 of 2017 in OA No.100 of 2012.

2. Mr.Om Prakash, learned Senior Counsel for the petitioner,



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submitted that the private respondents in the writ petitions availed credit facilities from State Bank of India and subsequently committed default in repayment of the loan amount. Therefore, the State Bank of India, Stressed Assets Management Branch, filed Original Applications under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993 [for brevity, "*the Act of 1993*"] for recovery of various sums along with future interest and costs before the Debts Recovery Tribunal-II, Chennai.

3. During the pendency of the Original Applications, the financial asset, viz., the outstanding loan of the private respondents, was assigned to the petitioner herein by the State Bank of India vide an assignment agreement dated 26.3.2014 registered as Document No.3174 of 2016 on the file of the Sub Registrar Office, Avadi, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for brevity, "*the SARFAESI Act*"]. It is stated that by virtue of the said assignment and the provisions of the SARFAESI Act, the petitioner has stepped into the shoes of the State Bank of India with all powers to continue the recovery action from the stage at which it was



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assigned and, thus, the petitioner has prosecuted the Original Applications. It is further stated that the Original Applications were allowed by the Debts Recovery Tribunal-II, Chennai, vide order dated 12.5.2017 and in pursuance thereof, the Debts Recovery Certificates were also issued. It is stated that the fourth respondent has brought the properties for sale by issuing an e-auction sale notice dated 22.9.2022 for the proposed auction on 3.11.2022.

4. When the petitioner was about to file the inspection report as directed by the fourth respondent, a notification dated 4.10.2022 was issued by the Government of India in S.O.4717(E) in pursuance of Section 3 of the Act of 1993 transferring a part of the territorial jurisdiction hitherto vested in the Debts Recovery Tribunal-II, Chennai to the Debts Recovery Tribunal-III, Chennai. It is stated that in view of the aforesaid, the fourth respondent expressed his inability to proceed further in the matter and is contemplating to withdraw the sale notice itself. Therefore, the petitioner has been advised to file these writ petitions.

5. A perusal of the notification dated 4.10.2022 issued by the



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Ministry of Finance, Department of Financial Services, Government of India, in exercise of the powers conferred under Section 3 of the Act of 1993 makes it clear that the jurisdiction in respect of all applications involving debt amount of Rs.100 crores and above, if otherwise falling under the jurisdiction of Debts Recovery Tribunal No.2 and Debts Recovery Tribunal No.3, etc., shall vest with the Debts Recovery Tribunal No.1, Chennai. Likewise, the jurisdictions of Debts Recovery Tribunal No.2, Chennai and Debts Recovery Tribunal No.3, Chennai, have also been notified. By virtue of the aforesaid notification, the fourth respondent, i.e., the Recovery Officer, Debts Recovery Tribunal-II, Chennai, ceases to have any power to proceed further in the matter.

6. No doubt, such change in jurisdiction and the consequential transfer of cases from one tribunal to another would take reasonable time. However, solely on that ground, the plea of the petitioner cannot be accepted by conferring jurisdiction on a Tribunal, which otherwise ceases to have jurisdiction by virtue of the notification issued on 4.10.2022.



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7 In such view of the matter, these writ petitions are dismissed.

However, the fourth respondent is directed to transfer all the case records pertaining to the petitioner to the file of the Debts Recovery Tribunal-III, Chennai, within eight weeks from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, W.M.P.Nos.28241, 28242 and 28243 of 2022 are closed.

(T.R., ACJ.) (D.K.K., J.)  
01.11.2022

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AND  
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(sasi)

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