IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2022

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P. No.29892 of 2022

M/s.Jai Hind Spinning Mills ltd.,
rep. By its Managing Director,
P.Muthuswamy ... Petitioner

Vs.

1.The South Indian Bank Ltd.,
Chennai George Town Branch,
No.64, Armenian Street,
Catholic Centre, Chennai 600 001

2.The Authorised Officer,
South Indian Bank Ltd.,
Regional Office, Haddows Road,
Nungambakkam, Chennai 600 006

3.State Bank of India,
Stressed Assets Resolution Branch,
Red Cross Building,
Montieth Road,
Egmore, Chennai 600 008

4.The Registrar,
Debts Recovery Tribunal-II,
Shastri Bhavan,
Subba Road Avenue,
Nungambakkam, Chennai 8 ... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing respondents 1 to 3 to put back the petitioner in possession of all the secured assets which are described in the auction sale notice dated 01.10.2021 issued by the 2nd respondent which are the subject-matter of the loan account bearing No.004256000000021 of the petitioner with the respondent branch and also return to the petitioner all the original title deeds relating to the said properties.

For the Petitioner :: Mrs.P.V.Rajeswari

For the Respondents :: Mr.Om Prakash,
Senior Counsel,
for Mr.R.Imayavaramban
for respondents 1 to 3

ORDER

(Made by the Hon'ble Acting Chief Justice)

The petitioner has filed this writ petition seeking for a Writ of Mandamus directing respondents 1 to 3 to put back the petitioner in possession of all the secured assets which are described in the auction sale notice dated 01.10.2021.

2. Learned counsel for the petitioner submitted that the petitioner's account was classified as ‘non-performing assets’. The first respondent issued a demand notice to the petitioner under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, making a demand for a sum of Rs.10,34,19,737.74, as on 10.07.2018.

3. The petitioner submitted an one-time settlement proposal on 14.09.2020 for Rs.7 Crore. However, the same was rejected on 23.09.2020. Therefore, the petitioner enhanced the proposal to Rs.7.5 Crore as on 28.09.2020. The enhanced proposal was also rejected by the first respondent on 06.10.2020. Thereafter, respondents 1 and 2 proceeded against the secured assets of the petitioner and accordingly,

the second respondent took physical possession of the secured assets of the petitioner. The second respondent issued auction sale notice dated 01.10.2021. The said auction sale notice was challenged by the petitioner in S.A.No.363 of 2021 under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal-II, Chennai. The matter was taken up by the Tribunal and both sides argued the case and orders were reserved. During the said period, the petitioner paid the outstanding dues payable to both the banks viz., the South Indian Bank Ltd. and the State Bank of India. Learned counsel for the petitioner also referred to the 'no due certificate' issued by the State Bank of India.

4. A perusal of the letter dated 26.08.2022 issued by State Bank of India in favour of the petitioner shows that the loan account of the petitioner - M/s.Jai Hind Spinning Mills Ltd., has been closed on 25.08.2022 and they have no dues to be recovered against the petitioner.

5. Mr.Om Prakash, learned Senior Counsel appearing for respondents 1 to 3 submitted that the amount payable to the first respondent- South India Bank Ltd. has also been paid in full by the

petitioner, pending proceedings. He has also mentioned that both the banks viz., South Indian Bank Ltd. and State Bank of India do not have any grievance against the petitioner. In the auction conducted by the bank, the highest bidder, viz., the auction purchaser has paid Rs.8 Crore. But the auction has not been confirmed in his favour in view of the fact that the petitioner has also cleared all the dues to both the banks in the meanwhile.

6. Learned Senior Counsel submits that during the interregnum, due to bifurcation of jurisdiction of Tribunals, S.A.No.363 of 2021 pending on the file of Debts Recovery Tribunal-II, Chennai has been assigned to the file of Debts Recovery Tribunal-III, Chennai. The matter is still pending. Because of the pendency, the petitioner's stock-in-trade is also suffering. Therefore, the learned counsel submits that a direction may be issued to the Tribunal to pronounce order and also to release the stock-in-trade.

7. Since the petitioner has cleared the outstanding dues to both the banks, we direct the Debts Recovery Tribunal II, Chennai to transfer S.A.No.363 of 2021 to the file of Debts Recovery Tribunal-III,

Chennai within a week's time, and we direct Debts Recovery Tribunal-III, Chennai to take up S.A.No.363 of 2021 and dispose of the same within ten days' time.

8. The writ petition is disposed of accordingly, as nothing remains for adjudication in this writ petition. No costs. Consequently, WMP No.29283 of 2022 is closed.

(T.R., ACJ.) (D.B.C., J.)
11.11.2022

Index: Yes/No
tar

Office to note:
Issue order copy by 25.11.2022

To

1.The South Indian Bank Ltd.,
Chennai George Town Branch,
No.64, Armenian Street,
Catholic Centre, Chennai 600 001

2.The Authorised Officer,
South Indian Bank Ltd.,
Regional Office, Haddows Road,
Nungambakkam, Chennai 600 006

3.State Bank of India,
Stressed Assets Resolution Branch,
Red Cross Building,
Montieth Road,
Egmore, Chennai 600 008

4.The Registrar,
Debts Recovery Tribunal-II,
Shastri Bhavan,
Subba Road Avenue,
Nungambakkam, Chennai 8

T.RAJA, ACJ,
and
D.BHARATHA CHAKRAVARTHY, J.

(tar)

W.P. No.29892 of 2022

11.11.2022