



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P (MD)No. 3967 of 2022

&

WMP (MD)No.3406 of 2022

Enixs Technology India Private Ltd.,
rep. By its Chairman & Managing Director
G.B.Ramprakash,

.. Petitioner

Vs

1. State Bank of India,
rep. By its Authorized Officer,
Stressed Assets Recovery Branch (SARB),
No.8, Dr.Ambedkar Road,
I Floor of Vinayaga Nagar Branch,
Madurai-625 020.

2. The Chief Manager,
State Bank of India,
SME Branch, Thuvakudi,
SIDCO Industrial Estate,
Thuvakudi-620 015.
Trichy District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Demand notice dated 09.08.2021 and possession notices dated 28.12.2021 and 04.01.2022 issued by the 1st respondent under the Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the sale notice issued by the 1st respondent under proceedings in SARB/MDU/CLO-II/535, dated 02.02.2022, quash the same as illegal, arbitrary, mala fide and without jurisdiction and to consequently direct the respondents to defreeze and operationalize the bank account of the petitioner.

For Petitioner : Mr.N.G.R.Prasad, for
M/s.Row and Reddy

For Respondents : Mr.P.Pethurajesh,



ORDER

[Made by PARESH UPADHYAY, J.]

1. The prayer clause in this petition is as under:-

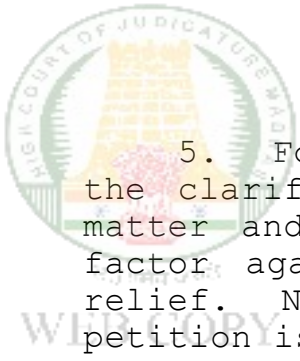
WEB COPY

"To issue a Writ of Certiorarified Mandamus, to call for the records of the Demand notice dated 09.08.2021 and possession notices dated 28.12.2021 and 04.01.2022 issued by the 1st respondent under the Securitization & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the sale notice issued by the 1st respondent under proceedings in SARB/MDU/CLO-II/535, dated 02.02.2022, quash the same as illegal, arbitrary, mala fide and without jurisdiction and to consequently direct the respondents to defreeze and operationlize the bank account of the petitioner."

2. Learned advocate for the petitioner has submitted that, issuance of notice by the respondent Bank is without authority of law because the first notice was already withdrawn on the representation of the petitioner pointing out that the same was illegal. It is submitted that having withdrawn the same, the second notice was not legal. Serious grievance is made with regard to the freezing of bank account of the petitioner. It is noted that, learned advocate for the petitioner has extensively taken this Court through the material on record right up to the last communication dated February 02, 2022 and response thereto, which according to him is indicative of the fact that the things are not in order with the respondent Bank and therefore the matter is being investigated as well. It is submitted that this petition be entertained.

3. Having heard learned advocate for the petitioner and having considered the material on record, we find that, what is agitated before this Court can very well be agitated before the Debts Recovery Tribunal also and thus, on the ground of alternative statutory remedy, this petition need not be entertained. Though submissions are made on merits, since we are not entertaining this petition on the ground of the alternative statutory remedy, deciding those contentions may prejudice either of the parties, therefore the same is not done.

4. Learned advocate for the petitioner at this stage has submitted that, appropriate protection be granted to the petitioner to approach the DRT. In this regard, it is noted that the first notice under challenge in this petition is dated 09.08.2021. Sufficient time from that date has lapsed and therefore that request is not accepted. Rest are the consequential orders.



5. For the above reasons this petition is disposed of with the clarification that we have not gone into the merits of the matter and disposal of this petition would not be treated as a factor against the petitioner, if otherwise it is entitled to relief. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

+1 CC to M/s.ROW AND REDDY, Advocate (SR-10038[F]
dated 04/03/2022)

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-10099[F] dated
04/03/2022)

W.P.No.3967 of 2022
04.03.2022

SB(CO)
KP(04.04.2022) 3P 3C