



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.12152 of 2022

and W.M.P. (MD) Nos.8647 and 8649 of 2022

M/s. Prabhu Spinning Mills (P) Limited,
Represented by its Authorized Representative,
Mr.G.Ayyappan,
Kottaiyur, Agaram Village,
Thadicombu, Dindigul Taluk,
Dindigul District.

... Petitioner

Vs.

1.The Authorized Officer,
South Indian Bank,
Madurai Regional Office,
No.3, LIC Building, West Marret Street,
Madurai - 625 001.

2.C.Kumarasamy alias Jayaraman,
Proprietor,
M/s. Jayaram Textiles,
No.695, North 4th Street
Thiyagaraja Nagar, Palayamkottai,
Tirunelveli - 627 011.

3.The District Collector/District Magistrate,
District Collectorate Buildings,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned Tender Cum Auction Sale Notice dated 19.05.2022 issued by the 1st Respondent with regard to the petitioner's goods alone which forms a part of Item No.2(b) and quash the same and consequently, direct the 1st respondent to redeliver the goods owned by the Petitioner lying in the premises of the 2nd respondent factory.



For Petitioner : Mr.Rajpal Singh
For 1st Respondent : Mr.R.Pandivel
Standing Counsel

ORDER

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(Order of the Court was made by **S.S.SUNDAR, J.**)

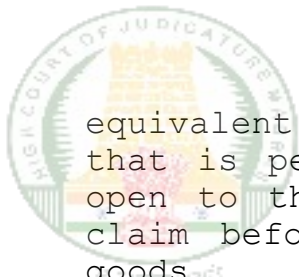
The Tender Cum Auction Sale Notice dated 19.05.2022, issued by the 1st Respondent, insofar as the same relates to item No.2(b) - Stock is under challenge before this Court in the above writ petition, stating that the item No.2(b) - Stock belongs to the writ petitioner, who is a third party in the proceedings initiated by the bank against the borrower.

2. It is admitted that the petitioner has earlier approached this Court by filing **(*) W.P.(MD) No.7178 of 2021** and this Court had directed the petitioner to approach the jurisdictional Tribunal by impleading itself in the pending proceedings and the petitioner has also approached the Debts Recovery Tribunal, Madurai by filing impleading application in I.A.No.1435 of 2021 in the pending S.A.No.172 of 2021, filed by the borrower challenging the sale notice issued earlier. However, the sale did not take place because of want of bidders. Hence, the bank has issued the impugned sale notice. The petitioner has filed the above writ petition, making a claim in respect of the finished and semi-finished goods, which according to him worth for a sum of **(*)Rs.13,36,320/-**.

3. When it is admitted that the petitioner has already approached the Tribunal and the Tribunal does not function as on date for want of Presiding Officer and the Tribunal is yet to decide the issue, it will be proper to preserve the rights of the writ petitioner.

4. Accordingly, the Writ Petition stands allowed and the impugned sale notice dated 19.05.2022, is stayed in respect of item 2(b) - Stock as per the impugned sale notice till such time the claim of the petitioner is disposed of by the Debts Recovery Tribunal, Madurai in S.A.No.172 of 2021. It is made clear that the respondent is at liberty to proceed with the sale in respect of all other properties mentioned in the sale notice. No costs. Consequently, connected Miscellaneous Petitions are closed.

5. Learned Standing Counsel for the respondents 1 and 2 submitted that the goods which are referred to in 2(b) - Stock belongs to the borrower. However, this contentious issue need not be decided in the writ petition as the Tribunal is seized of the matter. However, it is open to the petitioner to approach the respondent bank for release of the goods on payment of the sum



equivalent to the value of the goods without prejudice to the claim that is pending before the Debt Recovery Tribunal and it is also open to the bank to release the goods without prejudice to their claim before the Debts Recovery Tribunal on receipt of value of goods.

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Sd/-

Assistant Registrar(CS-II)

(*)Corrected as per the order of this Court dated 25/07/2022 made in W.M.P. (MD) No.10230 of 2022 in W.P. (MD)No.12152 of 2022

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sj

To

(*) To be substituted to the order already despatched on 06/07/2022

- 1.The Authorized Officer,
South Indian Bank,
Madurai Regional Office,
No.3, LIC Building, West Marret Street,
Madurai - 625 001.
- 2.The District Collector/District Magistrate,
District Collectorate Buildings,
Tirunelveli District.
- 3.The Predising Officer,
The Dept recovery Tribunal Madurai.

+1 CC to M/s.RAJPAL Singh, Advocate (SR-33653[F] dated 25/07/2022)

W.P (MD)No.12152 of 2022
20.06.2022

NSN(CO)
KB(30.06.2022) 3P 6C
RD(01/08/2022) 3P 5C