



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.12.2022**

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)NO.18757 OF 2022
and
W.M.P(MD)No.13678 of 2022**

M/s.Rajeshwari Food Products Private Limited,
represented by its Managing Director,
Bama Shanmugam,
wife of N.Shanmugam,
SF-25B/27, South Vellalar Street,
Pandamangalam,Woraiyur,
Tiruchirappalli – 620 003.
.vs.

:Petitioners

1.The Authorized Officer,
SBI Stressed Assets Recovery Branch,
No.8, Dr.Ambedkar Road,
Vinayaga nagar Branch First Floor,
Madurai – 625 020.

2.The State Bank of India,
represented by its Manager,
SME Branch,
SBI Main Branch Buildings,
First Floor,
Mc Donalds Road,
Tiruchirappalli – 620 001.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned notice dated 2.8.2022 issued by



the Authorized Officer, State Bank of India, SBI Stressed Assets Recovery Branch, Madurai, the first respondent, pending disposal of the above Writ Petition.

For Petitioner :Mr.C.Meenakshi Ramapreabu

For Respondents :Mr.N.Dilip Kumar
Standing Counsel

O R D E R

(Order of the Court was made by D.KRISHNAKUMAR,J)

The Petitioner has filed this Writ Petition seeking issuance of a Writ of Certiorari calling for the records relating to the impugned notice, dated 2.8.2022 issued by the Authorized Officer, State Bank of India, SBI Stressed Assets Recovery Branch, Madurai, the first respondent, pending disposal of the above Writ Petition.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Petitioner has approached the respondent-Bank for availing credit facility on 30.11.2012. On 15.3.2013, a term loan of Rs.4,84,00,000/- and cash credit of Rs.10 lakhs was sanctioned by the respondent-Bank. The term loan is availed only for the purpose



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of construction of factory premises and purchase of machineries by the Petitioner. A registered memorandum of Deposit of Title Deed vide Document No.4813 of 2013 in the office of the Sub-Registrar Office, Woraiyur was executed by the Petitioner in favour of the respondent-Bank towards security for the loan availed. As the Petitioner has not repaid the loan amount, it was classified as Non Performing Asset on 28.2.2015 and a statutory demand notice under Section 13(2) of the SARFAESI Act was issued on 28.2.2015 followed by the possession notice under Section 13(4) of the SARFAESI Act on 14.5.2015. Thereafter, the Petitioner has filed S.A.No.242 of 2015 before the Debts Recovery Tribunal, Madurai challenging the possession notice, which is still pending. There is no interim order granted by the Debts Recovery Tribunal. The Petitioner has filed W.P(MD)No.9367 of 2015 seeking a direction to the respondent-Bank to restructure the loan and the same was dismissed as withdrawn on 11.6.2015. The respondent Bank issued auction sale notice, dated 16.12.2016 which was also challenged by the Petitioner amending the prayer in S.A.No.242 of 2015 and subsequently, sale notice was issued by the respondent Bank. Now the instant Writ Petition has been filed by the Petitioner challenging the sale notice by the private entity in the present Writ Petition



and seeks for selling the property stating that according to the Petitioner the landed property has already been sold to the third party and remaining is only the machineries. The respondent Bank has initiated steps by issuing the impugned sale notice by the private entity.

4. According to the Petitioner, the respondent-Bank has initiated steps to sell the machineries for a sum of Rs.54 lakhs as a scrap, when the machinery and the plant purchased by the Petitioner is worth about Rs.6 crores. At the time of admission, this Court has granted interim order on 17.8.2022. The Petitioner's submission is recorded by this Court while granting the interim order by this Court. The learned counsel for the Petitioner has also submitted that there is a prospective buyer to buy the machineries in question. The learned counsel has also submitted that the Petitioner is proposed to settle the amount of Rs.60 lakhs in instalments on or before February 2023.

5. The learned Standing Counsel appearing for the respondents strongly objected for the proposals submitted by the Petitioner. According to the respondents-Bank, the landed property



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was already sold to the third party. Insofar as the machineries are concerned, the Petitioner has filed Writ Petition and obtained an interim order. Therefore the respondent Bank is not in a position to hand over the possession of the property to the auction purchaser and would further submit that the outstanding due as on 16.8.2022 is Rs.11.27 crores. He would further submit that the intention of the Petitioner is to drag on the proceedings to realise the outstanding due and it will delay the handing over of the property to the auction purchaser. The learned counsel for the respondent/Bank would also fairly submit that if the petitioner has come forward with a proposal for payment of Rs.60 lakhs towards the outstanding due, the respondent-bank is ready to consider the request made by the Petitioner. Considering the above said proposal made by the respondent Bank, we are inclined to grant four weeks time to the Petitioner to settle the amount of Rs.60 lakhs, as accepted by the respondent-Bank.

6.In view of the above, the Petitioner is directed to pay a sum of Rs.60 lakhs towards the outstanding due to be payable by the Petitioner to the respondent/Bank on or before 30.12.2022 and on such payment being made , the Petitioner is permitted to remove



the machineries in the land in question, forthwith. If the Petitioner is failing to do so, the respondent-Bank is entitled to proceed with the matter in accordance with law.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
05.12.2022

Index:Yes/No

Internet:Yes/No

vsn

To

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AND

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ORDER MADE IN

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