



WEB COPY



WP Nos. 24998 and 24999 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition Nos. 24998 and 24999 of 2016
and
WMP.Nos.21356 and 21357 of 2016

Indian Overseas Bank
Rep.by its Chief Manager
Tambaram (West) Branch
Tambaram represented herein
by its Senior Manager

.. Petitioner in both WPs

Versus

1. M/s. Sakthi Industries,
Represented by its proprietor,
V.R.Chellappan,
residing at New No.11, (Old No.7),
Ranganathan Street, Chitlapakkam,
Chennai - 600 064.
2. V.R. Chellappan
3. R. Srinivasan
4. V. Seshadri
5. B.S. Balaji
6. B.S. Arun
7. B.S. Suganya
8. Debts Recovery Tribunal - III,
Rep. by its Registrar,
Spencer Towers, V Floor,
770-A Anna Salai, Chennai - 600 002

.. Respondents in both WPs



WP Nos. 24998 and 24999 of 2016

Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the eight respondent/DRT-III, Chennai to hear the applications in I.A. Nos. 394 and 395 of 2008 in O.A.No. 5 of 2007 and dispose it of on merits and in accordance with law.

For Petitioner : Mr. F.B. Benjamin George
in both the Writ Petitions

For R1 & R2 : No appearance
in both the Writ Petitions

For R5 to R7 : Mr. T.V.Vineethkumar
in both the Writ Petitions

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

The petitioner-Bank has come forward with these writ petitions praying to issue a Writ of Mandamus, directing the eight respondent/DRT-III, Chennai to hear the applications in I.A. Nos. 394 and 395 of 2008 in O.A.No. 5 of 2007 and dispose it on merits and in accordance with law.

2. The petitioner is a Nationalised Bank and during the course of their banking business, the first respondent herein availed certain credit facilities by mortgaging the property of the second respondent. During the subsistence of loan, the respondents 5 to 7 purchased the mortgaged property from the second respondent agreeing to redeem the mortgage from the



WP Nos. 24998 and 24999 of 2016

petitioner bank by paying the loan amount. However, the loan amount has not been paid and the borrowers committed default in payment of the loan amount.

Therefore, the petitioner bank filed O.A. No. 108 of 1998 before the Debts Recovery Tribunal for recovery of Rs.27,69,418/- with costs and subsequent interest. The Original Application No. 108 of 1998 was subsequently transferred to Debts Recovery Tribunal-III, Chennai and re-numbered as O.A. No. 5 of 2007. Pending Original Application, for realising the loan amount, the petitioner bank also initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI). Ultimately, the secured assets have been sold by the petitioner bank to one Mr. Mylai Sukumar for a sale consideration of Rs.51 lakhs on 01.08.2005 and sale certificate was also issued to him. Thereafter, the petitioner bank has filed the instant application in I.A. Nos. 394 and 395 of 2008 in O.A. No. 5 of 2007 praying to amend the prayer in the Original Application, reduce the amount to be recovered and to direct the borrowers to return the title deeds pertaining to the mortgaged property. In the said applications, the respondents/borrowers have also filed an application to implead themselves and it is stated that the said applications are pending, hence, the petitioner bank has filed these writ petitions.



WP Nos. 24998 and 24999 of 2016

3. We have heard the learned counsel for the petitioner-bank and the learned counsel for respondents 5 to 7 and perused the materials on record.

4. Having regard to the nature of relief sought for by the petitioner-bank, the eight respondent is directed to consider I.A.Nos. 394 & 395 of 2008 in O.A. No. 5 of 2007 on its file, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after providing opportunity of hearing to all the parties, within a period of four weeks from the date of receipt of a copy of this order.

5. With the aforesaid direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.]

[M.S.Q., J.]

13.02.2023

Index : Yes / No
Internet : Yes / No
av/rsh

To

The Registrar,
Debts Recovery Tribunal - III,
Spencer Towers, V Floor,
770-A Anna Salai, Chennai - 600 002.



WEB COPY



WP Nos. 24998 and 24999 of 2016

R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

av/rsh

WP Nos.24998 & 24999/2016

13.02.2023