



W.P.No.15714 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.05.2023

CORAM :

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15714 of 2023

Sri Laxmi Flour Mills Company
rep. by it Partner, K.Anandakumar
Door No.290/387, Sathy Road
Erode – 638 003.

.. Petitioner

Vs

The Authorised Officer
South Indian Bank
Trichy Road, Sungam
Coimbatore – 641 018.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to forbear the respondent/ bank from confirming the sale held on 18.2.2023 through e-auction and permitting the petitioner to make the payment of Rs.3 crore in one payment to the respondent bank.

For the Petitioner : Mr.R.Rajarajan

For the Respondent : Mr.M.L.Ganesh



W.P.No.15714 of 2023

ORDER

(Order of the court was made by
SENTHILKUMAR RAMAMOORTHY,J.)

The petitioner seeks a direction to restrain the respondent/bank from confirming the auction-sale held on 18.2.2023.

2. The respondent/bank initiated measures under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The said measures were challenged by the petitioner by initiating proceedings before the jurisdictional Debts Recovery Tribunal. In such proceedings, a conditional order of stay was granted on 24.3.2023. In terms thereof, the petitioner was required to deposit a sum of Rs.3 crore in two installments. The admitted position is that the first installment of Rs.1.50 crore, which was required to be paid on or before 21.4.2023, was not paid within the stipulated deadline. The said conditional order also recorded that, if the deposit is not made as ordered by the Debts Recovery Tribunal, the respondent/bank is



W.P.No.15714 of 2023

at liberty to proceed further under the SARFAESI Act without any reference to the Tribunal. Since the petitioner did not make payment, the respondent/bank proceeded to sell one of the properties mortgaged by the petitioner to an auction-purchaser for a sum of Rs.2.93 crore.

3. In the petition, the petitioner has disclosed that he has filed an appeal on 19.4.2023 before the Debts Recovery Appellate Tribunal as against the order passed by the Debts Recovery Tribunal. The present writ petition has been filed by stating that the said appeal has not yet been numbered.

4. Learned counsel for the petitioner submits that the petitioner is ready and willing to pay a sum of Rs.3 crore by tomorrow and the remainder within three months.

5. Learned Standing Counsel appearing for the respondent/bank submits that the writ petition is not maintainable and that the petitioner has already filed an appeal before the DRAT and



W.P.No.15714 of 2023

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communicated the same to the respondent/bank.

6. The petitioner has an efficacious alternative statutory remedy and has, in fact, taken recourse to such remedy. In these circumstances, we are not inclined to exercise discretionary jurisdiction by entertaining the present writ petition.

For the foregoing reason, the writ petition is dismissed by leaving it open to the writ petitioner to seek appropriate relief before the jurisdictional DRT/DRAT, as the case may be. There will be no order as to costs. Consequently, W.M.P.No.15190 of 2023 is closed.

(C.V.K., J.) (S.K.R., J.)
17.05.2023

Index : No
Neutral Citation : No
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To:
The Authorised Officer
South Indian Bank
Trichy Road, Sungam
Coimbatore – 641 018.



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W.P.No.15714 of 2023

C.V.KARTHIKEYAN, J.
AND
SENTHILKUMAR RAMAMOORTHY, J.

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W.P.No.15714 of 2023

17.05.2023