BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM

THE HON'BLE MR.JUSTICE **R.SURESH KUMAR**
AND
THE HON'BLE MR.JUSTICE **G.ARUL MURUGAN**

W.P(MD)No.12534 of 2024
and
W.M.P.(MD)No.11195 of 2024

P.Karuppusamy
Proprietor of M/s.PKS Coir and Pith Rope",
Madurai. ... Petitioner

vs

The Canera Bank Limited,
represented by its Authorized Officer,
ARM Branch, 1st Floor Circle Office,
East Veli Street, Madurai. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorar, to call for the records relating to the impugned seizure intimation notice Ref.No.ARM/MDI/491/2023-2024/SSR, dated 19.03.2024 issued passed by the respondent under SARFAESI Act, 2002 and to quash the same as illegal.

For Petitioner : Mr.K.S.Duraipandian
For Respondent : Mr.P.Pethu Rajesh

*****

ORDER

(Order of this Court was made by **G.ARUL MURUGAN, J.**)

The Writ Petition is filed challenging the impugned seizure intimation notice, dated 19.03.2024 issued by the respondent Bank calling upon the petitioner to pay the entire liability involved under two loan accounts.

2.The petitioner is running a small scale industry in the name and style of “M/s.PKS Coir and Pith Rope”at Sivagangai District. The respondent Bank had sanctioned two loans, one for a sum of Rs.90,00,000/- on 03.12.2018 and another for a sum of Rs.16,00,000/- on 08.07.2020. As there were defaults in the repayment of loan amounts, the two loan accounts were classified as non performing asset on 08.08.2021 and 09.08.2021 respectively. The respondent Bank/secured creditor had filed an application in O.A.No.55 of 2022 before the Debts Recovery Tribunal, Madurai. Further proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “SARFAESI Act”), had been initiated and a demand notice, dated 08.03.2024 under Section 13(2) of the SARFAESI

Act was issued demanding a sum of Rs.1,34,76,157.31/-. Further, the respondent Bank had issued a seizure intimation notice, dated 19.03.2024 calling upon the petitioner to pay the entire liability of a sum of Rs. 1,40,59,589.73/- within a period of 15 days from the date of notice, failing which, the Bank will be constrained to initiate appropriate legal proceedings including the seizure and auction of the hypothecated assets for recovery of the dues. Challenging the impugned seizure notice, the petitioner has preferred the above Writ Petition.

3.Heard Mr.K.S.Duraipandian, learned Counsel for the petitioner and Mr.P.Pethu Rajesh, learned Counsel for the respondent Bank and perused the materials available on record.

4.Admittedly, the petitioner had availed financial facility from the respondent Bank in two loan accounts for a sum of Rs.90,00,000/- and Rs.16,00,000/- respectively. As the dues were not repaid promptly and there was a default, both the loan accounts were classified as non performing asset and the respondent Bank had filed O.A.No.55 of 2022 before the Debts Recovery Tribunal, Madurai in respect of the dues. The respondent Bank had also initiated proceedings under the SARFAESI Act by issuing a demand notice under Section 13(2) of the SARFAESI Act in respect of the dues for a sum of Rs.1,34,76,157.31/-. As the loan accounts involved the goods available including the plant and machinery, the respondent Bank had also issued the impugned seizure intimation notice, dated 19.03.2024 calling upon the petitioner to make the payment of entire liability within a period of 15 days from the date of the notice, failing which, the respondent Bank will be constrained to initiate appropriate legal proceedings, which includes seizure and auction of the hypothecated assets.

5.As rightly contended by Mr.P.Pethu Rajesh, learned Counsel for the respondent Bank, the impugned notice is only an intimation issued by the respondent Bank calling upon the petitioner to pay the entire outstanding liability within a period of 15 days failing which, further proceedings will be taken. Having received the notice, it is for the petitioner to discharge his liability by paying the amount and if he is having any details to be furnished to the respondent Bank, it is for him to reply to the respondent Bank pursuant to the impugned seizure intimation notice issued by the respondent Bank. Having failed to do so, the Writ Petition filed by the petitioner challenging the very seizure intimation notice cannot be sustained.

6.In respect to the proceedings initiated by the respondent Bank under the SARFAESI Act, it is always open to the petitioner to challenge the possession notice, as and when issued by the secured creditor by filing an appropriate appeal before the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. When the petitioner is having an alternative and efficacious remedy to redress his grievance and as the petitioner can very well submit a reply to the impugned notice issued by the respondent Bank, the Writ Petition filed cannot be entertained. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J] & [G.A.M., J]
14.06.2024

Internet :Yes/No
Index :Yes/No
NCC :Yes/No

cmr

R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

cmr

Order made in
W.P(MD)No.12534 of 2024

14.06.2024