BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 21/03/2025

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

WP(MD). No.4860 of 2025
and WMP(MD) No.3523 of 2025

M/s.Hemp Fabs
Represented by its Managing Partner
G.Aruljothi ... Petitioner

Vs

1. The Authorized Officer,
Bank of Baroda, Karur Main Branch,
No.1, 5th Cross, Senguthapuram,
Karur - 639 002..

2. The Chief Manager,
Bank of Baroda, Karur Main Branch,
No.1, 5th Cross, Senguthapuram,
Karur - 639 002..

3. Cholamandalam Ms General Insurance Company Ltd.,
Dare House,Ii Floor, Parrys, Chennai - 600 001,
Rep.by its General Manager..

4. Insurance Regulatory and Development Authority of India,
Represented by its Authorized Officer,
Sy.No. 115/1, Financial District, Nanakramguda,
Gachibowli, Hyderabad -500 032. ... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned possession notice in Ref. BOB/Karur/Possession/2024-25 dated 17.12.2024 as well as the consequential auction sale notice in Ref.BOB/KARUR/SALE NOTICE/HEMP issued by the 1st respondent bank dated 06.01.2025 which was published in Indian Express English news daily on 05.01.2025 and quash the same and consequently direct the 4th respondent to act upon the complaint of the petitioner in Token No. 11-24-015190 to settle the petitioner firms insurance claim amount in Claim No. 2162006558 pending before the 3rd respondent within the time frame fixed by this Court.

For Petitioner	: M/s.M.P.Senthil
For Respondents	: Mr.P. Pethurajesh for R1&R2 Standing counsel
	Ms.K.R.Shiva Shankari for R3
	Mr.T.Anwar Sameem for R4

ORDER

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

The writ petition has been filed challenging the possession notice dated 17.12.2024 as well as the consequential auction sale notice of the 1st respondent dated 06.01.2025 which was published on 05.01.2025 and for a consequential direction to the 4th respondent to act upon the complaint of the petitioner in Token No. 11-24-015190 to settle the petitioner firm's insurance claim amount in Claim No. 2162006558 pending before the 3rd respondent within the time frame fixed by this Court.

2. The petitioner, which is a firm, had availed credit facilities with the respondent Bank, for which, as a security, it hypothecated the entire stocks of the firm. It is their case that they have been paying the dues properly without any default. While so, in the month of September 2024, a fire accident happened in their premises, as a result of which, the entire stocks were destroyed and the machineries got damaged, for which, the petitioner firm has registered criminal cases and raised insurance claim. In the interregnum, the petitioner could not pay the dues to the bank and for the default committed for the said period, the bank has initiated SARFAESI proceedings by issuing notice under Section 13(2) of the SARFAESI Act on 24.09.2024. Subsequently, possession notice was issued on 17.12.2024 and an auction notice was also issued on 06.01.2025 fixing the auction on 20.02.205. Challenging the same, the petitioner is before this Court.

3. We have heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. When the writ petition came up for hearing, on 21.02.2025, this Court had directed the bank to proceed with the auction, however, granted an order of stay with regard to confirmation of sale. However, it is represented by the learned counsel for the petitioner that without knowledge of the same, the bank has issued second sale notice on 04.03.2025.

5. It is the claim of the petitioner that they have already insured their firm with the third respondent and since there was a fire broke out, they made a claim before the 3rd respondent and the same is pending. In the meanwhile, the respondent bank has taken action under SARFAESI Act.

6. It is stated by the learned counsel for the 3rd respondent that the claim process has been initiated and to complete the proceedings, the third respondent requires four months time.

7. In view of the above, since the petitioner's firm is under distress, till the insurance claim is processed, the bank may not claim any amount. Therefore, this Court is inclined to grant stay of further proceedings of the SARFAESI Act till the insurance claim is processed and final orders are passed.

6. With the above observation and directions, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

[J.N.B.,J] **[S.S.Y.,J]**

21.03.2025

NCC : Yes/No
Index : Yes/No
RR

J.NISHA BANU, J
AND
S.SRIMATHY, J.

RR

ORDER
IN
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