(2013) 09 MAD CK 0036

In the Madras High Court

Case No : Writ Petition (MD) No. 14980 of 2013 and M.P. (MD) No. 1 of 2013

M/s. R.V. Enterprises APPELLANT

Vs

The Authorised Officer, Indian Overseas Bank RESPONDENT

Date of Decision : 11-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0036

Hon'ble Judges : M. Venugopal, J;M. Jaichandren, J

Bench : Division Bench

Advocate : K.S. Shankar Murali, for the Appellant;

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This writ petition has been filed, praying that this Court may be pleased to issue a writ of certioraried mandamus to call

for and quash the impugned letter of the respondent bank dated 16.08.2013. It has been stated that the petitioner firm is carrying on a partnership

business, by name M/s. R.V. Enterprises, at No. D36, Developed Plots Industrial Estate, Thuvakudi, Tiruchirappalli - 15. The petitioner firm is

manufacturing boiler components and bulk material handling equipments.

2. It has been further stated that the petitioner had availed Cash Credit Facility, from the respondent bank, under Cash Credit Account No. 1237

and Cash Credit Account No. 1676. Further, the petitioner had committed default in payment of the amounts due to the respondent bank and

therefore, the respondent bank had issued a notice, u/s 13(2) of the Securitisation and Reconstruction of the Financial Assets and Enforcement of

Security Interest Act, 2002, on 17.06.2013, claiming a sum of Rs. 41,86,229/- said to be due under the Cash Credit Account No. 1237 and a sum of Rs. 51,39,297/-, said to be due under the Cash Credit Account No. 1676, after classifying the accounts as Non Performing Accounts.

3. It has been further stated that, on receipt of the notice, dated 17.06.2013, the petitioner has sent an explanation to the respondent bank,

requesting the respondent bank to restructure and convert the term loan to be repayable within 5 years. However, the respondent, by a reply

dated 26.07.2013, had declined to accept the proposal mooted out by the petitioner firm.

Thereafter, the petitioner had made further representations, to the respondent bank, to restructure the Cash Credit Facility availed by the

petitioner. However, the respondent bank, instead of accepting the request made by the petitioner, had issued the impugned communication, dated

16.08.2013, stating that if the petitioner firm does not honour its commitments of repaying the Cash Credit Loans availed by it, the respondent

bank would be constrained to issue appropriate proceedings against the petitioner, under the provisions of the Securitisation and Reconstruction of

the Financial Assets and Enforcement of Security Interest Act, 2002. In such circumstances, the petitioner has preferred the present writ petition

before this Court, under Article 226 of the Constitution of India.

4. In view of the averments made in the affidavit filed in support of the writ petition and in view of the submissions made by the learned counsel

appearing on behalf of the petitioner, we are of the considered view that the present writ petition filed by the petitioner firm is pre-mature in nature.

Even otherwise, the petitioner would have the right to appeal, under the relevant provisions of the Securitisation and Reconstruction of the Financial

Assets and Enforcement of Security Interest Act, 2002, if further, proceedings are initiated by the Bank, as stated in the impugned communication,

dated 16.08.2013. The Hon''ble Supreme Court, in United Bank of India Vs. Satyawati Tondon and Others, has made it clear that the scope of

interference by this Court, under Article 226 of the Constitution of India is limited in nature. It has also made it clear that the statutory schemes

provided under the specific enactments should not be defeated by the exercise of the writ jurisdiction by this Court. As such, the alternative

remedy provided to the petitioner, under the Securitisation and Reconstruction of the Financial Assets and Enforcement of Security Interest Act, 2002, ought not to be interfered by this Court, by invoking the writ jurisdiction, under Article 226 of the Constitution of India. In such

circumstances, we find it appropriate to dismiss the present writ petition. Hence, it stands dismissed. However, it may be open to the petitioner to

approach the appropriate forum, as per the provisions of the Securitisation and Reconstruction of the Financial Assets and Enforcement of Security

Interest Act, 2002, if further proceedings are initiated against the petitioner, by the respondent bank, in the manner known to law. No costs.

Consequently, connected M.P. (MD) No. 1 of 2013 is also dismissed.

